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⁽¹⁾ Text with EEA relevance

EN

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⁽¹⁾ Text with EEA relevance

I

(Legislative acts)

REGULATIONS

REGULATION (EU) No 248/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 26 February 2014****amending Regulation (EU) No 260/2012 as regards the migration to Union-wide credit transfers and direct debits****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Together with Regulation (EC) No 924/2009 of the European Parliament and of the Council ⁽³⁾, Regulation (EU) No 260/2012 of the European Parliament and of the Council ⁽⁴⁾ constitutes an important building block in the completion of a single euro payments area (SEPA), where no distinction between cross-border and national

payments in euro is to be made. The main objective of Regulation (EU) No 260/2012 is the migration from national credit transfer and direct debit schemes to harmonised SEPA credit transfer (SCT) and SEPA direct debit (SDD) schemes, inter alia, by providing Union citizens with a unique international bank account number (IBAN) that can be used for all SCTs and SDDs denominated in euro.

(2) Regulation (EU) No 260/2012 has provided for the SEPA migration to take place by 1 February 2014 in order to allow payment service providers and payment service users sufficient time to adapt their processes to the technical requirements that the migration to SCT and SDD entail.

(3) Since the adoption of Regulation (EU) No 260/2012 the Commission and the European Central Bank have closely monitored the progress of SEPA migration. Several meetings with Member States, national public authorities and market participants have been held. The European Central Bank has regularly published progress reports on SEPA migration on the basis of payment data collected by national central banks. Those reports indicate that a number of Member States in the euro area are well on track with migration rates for SCT currently close to 100 %. The large majority of payment service providers have reported that they are already SEPA-compliant. However, in several other Member States the migration rates are lagging behind expectations. This is particularly the case for SDD.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of 18 February 2014.

⁽³⁾ Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11).

⁽⁴⁾ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

(4) On 14 May 2013, the ECOFIN Council in its conclusions again stressed the importance of SEPA migration. It was noted that the SEPA migration was far from complete and that immediate efforts would be required by all market participants to complete SEPA migration in time. An action plan was adopted in which merchants, corporates, SMEs and public administrations were invited to immediately take the necessary concrete internal steps to adapt their processes and inform their clients of their IBAN details.

- (5) Despite the considerable efforts made by the European Central Bank, Member States, their national public authorities and market participants during recent months, the latest migration statistics show that the overall migration rate in the euro area to SCT has only increased from 40 % in June 2013 to around 64 % in November 2013, while the overall migration rate towards SDD has only reached 26 %. While the national figures show good progress in several Member States, a significant group of Member States is lagging considerably behind the expected migration rates. It is therefore very unlikely that all market participants will be SEPA compliant by 1 February 2014.
- (6) From 1 February 2014, banks and other payment service providers will have to refuse to process credit transfers or direct debits that are not SEPA-compliant because of their legal obligations, although, as is currently already the case, they technically could process those payments by continuing to use existing legacy payment schemes alongside SCT and SDD. Failing full migration to SCT and SDD, delays in those payments cannot therefore be excluded. All payment services users, and particularly SMEs and consumers, could be affected.
- (7) It is essential to avoid unnecessary disruption of payments resulting from the fact that SEPA migration is not fully completed by 1 February 2014. Payment service providers should therefore be allowed, for a limited period of time, to continue the processing of payment transactions through their legacy schemes alongside their SCT and SDD schemes, as they are doing now. A transitional period should therefore be introduced to allow for the continuation of such parallel processing of payments in different formats. Considering the current migration figures and the expected pace of migration, a one-off additional transitional period of six months is appropriate. Such 'grand-fathering' of non-SEPA compliant legacy systems should be considered to be an exceptional measure and should therefore be kept as short as possible, as rapid and comprehensive migration is necessary in order to achieve the full benefits of an integrated payments market. It is also important to limit in time the costs to the payment service providers of the continued use of the legacy payment schemes in parallel with the SEPA system. Payment service providers that have already fully migrated to SEPA might consider providing payment service users that have not yet migrated with conversion services during the transitional period. During the transitional period, Member States should refrain from applying penalties to payment service providers that process non-compliant payments and to payment service users that have not yet migrated.
- (8) Several large users of direct debit instruments have already indicated that they plan to migrate close to the end-date. Any postponing of those migration projects could lead to temporary stress on incoming payments and cash flows, and hence on treasury levels of the companies concerned. Such late migration on a large scale could also create certain bottlenecks, in particular at the level of banks and software vendors which may be faced with certain capacity constraints. The additional period for phasing in the new system would allow for a more gradual approach. Market participants that have not yet started to implement the necessary adaptations for SEPA compliance are called upon to do so as soon as possible. Market participants that have already started to adapt their payment processes should nevertheless complete the migration as rapidly as possible.
- (9) In view of the overall objective to realise coordinated and integrated migration, it is appropriate that the transitional period apply to both SCT and SDD. Different transitional periods for SCT and SDD would cause confusion to consumers, payment service providers, SMEs and other payment service users.
- (10) For reasons of legal certainty and in order to avoid any discontinuity to the application of Regulation (EU) No 260/2012, it is necessary that this Regulation enter into force as a matter of urgency and that it apply, with retroactive effect, from 31 January 2014.
- (11) In view of the urgency of the matter, an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, should apply.
- (12) Regulation (EU) No 260/2012 should therefore be amended accordingly,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- In Article 16 of Regulation (EU) No 260/2012, paragraph 1 is replaced by the following:
- '1. By way of derogation from Article 6(1) and (2), PSPs may continue, until 1 August 2014, to process payment transactions in euro in formats that are different from those required for credit transfers and direct debits pursuant to this Regulation.
- Member States shall apply the rules on the penalties applicable to infringements of Article 6(1) and (2), laid down in accordance with Article 11, from 2 August 2014.

By way of derogation from Article 6(1) and (2), Member States may allow PSPs to provide PSUs, until 1 February 2016, with conversion services for national payment transactions enabling PSUs that are consumers to continue using BBAN instead of the payment account identifier specified in point (1)(a) of the Annex on condition that interoperability is ensured by converting the payer's and the payee's BBAN technically and securely into the respective payment account identifier specified in point (1)(a) of the Annex. That payment account identifier shall be delivered to the

initiating PSU, where appropriate before the payment is executed. In such a case PSPs shall not levy any charges or other fees on the PSU directly or indirectly linked to those conversion services.'

Article 2

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

It shall apply, with retroactive effect, from 31 January 2014.

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

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

REGULATION (EU) No 249/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

repealing Council Regulation (EC) No 827/2004 prohibiting imports of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone and repealing Regulation (EC) No 1036/2001

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) The Union has been a contracting party to the International Convention for the Conservation of Atlantic Tunas (the ICCAT Convention) since 14 November 1997, following the adoption of Council Decision 86/238/EEC ⁽²⁾.
- (2) The ICCAT Convention provides a framework for regional cooperation in the conservation and management of tuna and tuna-like species in the Atlantic Ocean and its adjacent seas. The ICCAT Convention established an International Commission for the Conservation of Atlantic Tunas (ICCAT) which adopts conservation and management measures. Those measures become binding on the contracting parties.
- (3) In 1998, ICCAT adopted resolution 98-18 concerning the unreported and unregulated catches of tuna by large-scale long line vessels in the Convention area. That resolution established procedures for identifying countries whose vessels had fished for tuna and tuna-like species in a manner which diminished the effectiveness of ICCAT conservation and management measures. It also specified measures to be taken, including if necessary non-discriminatory trade restrictive measures, in order to prevent those countries' vessels from continuing such fishing practices.

⁽¹⁾ Position of the European Parliament of 5 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

⁽²⁾ Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984 (OJ L 162, 18.6.1986, p. 33).

- (4) Following the adoption of resolution 98-18, ICCAT has identified Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone as countries whose vessels fish Atlantic bigeye tuna (*Thunnus obesus*) in a manner which diminishes the effectiveness of its conservation and management measures. ICCAT has substantiated its findings with data concerning catches, trade and the activities of vessels.
- (5) As a consequence, ICCAT recommended that contracting parties take appropriate measures, consistent with the provisions of its resolution 98-18, to prohibit imports of Atlantic bigeye tuna and its products in any form from those countries.
- (6) In 2004, imports of Atlantic bigeye tuna originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone into the Union were prohibited by Council Regulation (EC) No 827/2004 ⁽³⁾.
- (7) At its 14th special meeting in 2004, ICCAT acknowledged the efforts made by Cambodia, Equatorial Guinea and Sierra Leone to address its concerns and adopted recommendations lifting trade-restrictive measures against those three countries in relation to Atlantic bigeye tuna and its products.
- (8) As a consequence, Council Regulation (EC) No 919/2005 ⁽⁴⁾ amended Regulation (EC) No 827/2004 to lift the prohibition on imports of Atlantic bigeye tuna and its products from Cambodia, Equatorial Guinea and Sierra Leone into the Union. Following that amendment, Regulation (EC) No 827/2004 only prohibits such imports from Bolivia and Georgia.
- (9) At its 22nd regular annual meeting in 2011, ICCAT acknowledged the actions taken by Bolivia and Georgia and adopted recommendation 11-19 lifting the prohibition on imports of Atlantic bigeye tuna and its products that continued to apply to those two countries.
- (10) Regulation (EC) No 827/2004 should therefore be repealed,

⁽³⁾ Council Regulation (EC) No 827/2004 of 26 April 2004 prohibiting imports of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone and repealing Regulation (EC) No 1036/2001 (OJ L 127, 29.4.2004, p. 21).

⁽⁴⁾ Council Regulation (EC) No 919/2005 of 13 June 2005 amending Regulation (EC) No 827/2004 as regards the prohibition of imports of Atlantic bigeye tuna from Cambodia, Equatorial Guinea and Sierra Leone, and repealing Regulation (EC) No 826/2004 prohibiting imports of blue-fin tuna from Equatorial Guinea and Sierra Leone and Regulation (EC) No 828/2004 prohibiting imports of swordfish from Sierra Leone (OJ L 156, 18.6.2005, p. 1).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 827/2004 is repealed.

Article 2

This Regulation shall enter into force on the seventh 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 Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

REGULATION (EU) No 250/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 325 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Union and the Member States have set themselves the objective of countering fraud, corruption and any other illegal activities affecting the financial interests of the Union, including cigarette smuggling and counterfeiting. In order to improve the long-term impact of spending and to avoid duplication, close and regular cooperation and coordination should be ensured at Union level and between Member States' authorities.
- (2) Activities with the aim of providing better information, specialised training, including comparative law studies and technical and scientific assistance, help significantly to protect the financial interests of the Union and at the same time to attain an equivalent level of protection across the Union.
- (3) Past support for such activities through Decision No 804/2004/EC of the European Parliament and of the Council ⁽³⁾ (Hercule programme), which was amended and extended by Decision No 878/2007/EC of the European Parliament and of the Council ⁽⁴⁾ (Hercule II programme), has made it possible to enhance the activities undertaken by the Union and the Member States in terms of countering fraud, corruption and any other illegal activities affecting the financial interests of the Union.

(4) The Commission has conducted a review of the achievements of the Hercule II programme which reports on its inputs and outputs.

(5) The Commission carried out an impact assessment in 2011, so as to evaluate the need to continue the programme.

(6) To continue and even develop the activities at Union and Member State levels to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting, also taking into account the new challenges in a context of budgetary austerity, a new programme ('the Programme') should be adopted.

(7) The Programme should be implemented taking into account the recommendations and measures listed in the Commission communication of 6 June 2013 entitled 'Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products — A comprehensive EU Strategy'.

(8) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁵⁾. In accordance with that Regulation, a grant is meant to support financially an action intended to help achieve a Union policy objective and is not to have as its sole purpose the purchase of equipment.

(9) The Programme should be open to participation by acceding States, candidate countries and potential candidates benefiting from a pre-accession strategy, as well as partner countries under the European Neighbourhood Policy, provided that these countries have reached a sufficient level of alignment of the relevant legislation and administrative methods to those of the Union, in accordance with the general principles and general terms and conditions for the participation of those States and countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements, as well as the countries of the European Free Trade Association (EFTA) participating in the European Economic Area (EEA).

⁽¹⁾ OJ C 201, 7.7.2012, p. 1.

⁽²⁾ Position of the European Parliament of 15 January 2014 (not yet published in the Official Journal) and decision of the Council of 11 February 2014.

⁽³⁾ Decision No 804/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule programme) (OJ L 143, 30.4.2004, p. 9).

⁽⁴⁾ Decision No 878/2007/EC of the European Parliament and of the Council of 23 July 2007 amending and extending Decision No 804/2004/EC establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule II programme) (OJ L 193, 25.7.2007, p. 18).

⁽⁵⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (10) The Commission should present to the European Parliament and to the Council an independent mid-term evaluation report on the implementation of the Programme, as well as a final evaluation report on the achievement of the objectives of the Programme. Furthermore, the Commission should provide, on an annual basis, the European Parliament and the Council with information on the annual implementation of the Programme, including results of the funded actions and information on the consistency and the complementarity with regard to other relevant programmes and actions at Union level.
- (11) This Regulation complies with the principles of subsidiarity and proportionality. The Programme should facilitate cooperation between the Member States and between the Commission and the Member States in order to protect the financial interests of the Union, using resources more efficiently than could be done at national level. Action at Union level is necessary and justified as it clearly assists Member States collectively to protect the general budget of the Union and national budgets and encourages the use of common Union structures to increase cooperation and information exchange between competent authorities. The Programme should not, however, impinge on Member States' responsibilities.
- (12) The Programme should run for a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁾.
- (13) In order to provide for a degree of flexibility in the allocation of funds, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the indicative allocation of those funds. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (14) The Commission should adopt annual work programmes containing the actions financed, the selection and award criteria and the exceptional and duly justified cases, such as those concerning Member States exposed to a high risk in relation to the financial interests of the Union, in which the maximum co-financing rate of 90 % of the eligible costs is applicable. The Commission should discuss with the Member States the application of this Regulation in the framework of the Advisory Committee for the Coordination of Fraud Prevention set up by Commission Decision 94/140/EC ⁽²⁾.
- (15) Member States should endeavour to enhance their financial contributions under the co-financing of grants awarded under the Programme.
- (16) The Commission should undertake the necessary steps to ensure that the annual work programmes are consistent with and complementary to other relevant programmes funded by the Union, in particular in the area of customs, in order to strengthen the overall impact of the actions of the Programme and to avoid any overlapping of the Programme with other programmes.
- (17) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽³⁾ for the European Parliament and the Council during the annual budgetary procedure.
- (18) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.
- (19) Decision No 804/2004/EC should be repealed. Transitional measures should be adopted to enable the completion of financial obligations relating to actions pursued under that Decision and of reporting obligations specified therein.
- (20) It is appropriate to ensure a smooth transition without interruption between the Hercule II programme and the Programme and it is appropriate to align the duration of the Programme with Regulation (EU, Euratom) No 1311/2013. Therefore, the Programme should apply as from 1 January 2014,

⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

⁽²⁾ Commission Decision 94/140/EC of 23 February 1994 setting up an advisory committee for the coordination of fraud prevention (OJ L 61, 4.3.1994, p. 27).

⁽³⁾ OJ C 373, 20.12.2013, p. 1.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The multiannual action programme to promote activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union 'Hercule III' (the Programme) is hereby established for the period from 1 January 2014 to 31 December 2020.

Article 2

Added value

The Programme shall contribute to all of the following:

- (a) the development of activities at Union level and the Member States to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting;
- (b) increased transnational cooperation and coordination at Union level, between Member States' authorities, the Commission and the European Anti-Fraud Office (OLAF), and in particular with regard to the effectiveness and efficiency of cross-border operations;
- (c) the effective prevention of fraud, corruption and any other illegal activities affecting the financial interests of the Union, by offering joint specialised training for staff of national and regional administrations, and for other stakeholders.

The Programme in particular shall create savings deriving from the collective procurement of specialised equipment and databases to be used by the stakeholders and those derived from specialised training.

Article 3

General objective

The general objective of the Programme shall be to protect the financial interests of the Union thus enhancing the competitiveness of the Union's economy and ensuring the protection of the taxpayers' money.

Article 4

Specific objective

The specific objective of the Programme shall be to prevent and combat fraud, corruption and any other illegal activities affecting the financial interests of the Union.

The specific objective shall be measured referring, inter alia, to target levels and baselines and through all of the following key performance indicators:

- (a) the number of seizures, confiscations and recoveries following fraud cases detected by joint actions and cross-border operations;
- (b) the added value and effective use of the co-financed technical equipment;
- (c) the exchange of information among Member States on the results achieved with the technical material;
- (d) the number and type of training activities, including the amount of specialised training.

Article 5

Operational objectives

The operational objectives of the Programme shall be all of the following:

- (a) to improve the prevention and investigation of fraud and other illegal activities beyond current levels by enhancing transnational and multi-disciplinary cooperation;
- (b) to increase the protection of the financial interests of the Union against fraud by facilitating the exchange of information, experiences and best practices, including staff exchanges;
- (c) to strengthen the fight against fraud and other illegal activities by providing technical and operational support to national investigation, and in particular customs and law enforcement, authorities;
- (d) to limit the currently known exposure of the financial interests of the Union to fraud, corruption and other illegal activities with a view to reducing the development of an illegal economy in key risk areas such as organised fraud, including cigarette smuggling and counterfeiting;
- (e) to enhance the degree of development of the specific legal and judicial protection of the financial interests of the Union against fraud by promoting comparative law analysis.

*Article 6***Bodies eligible for funding**

Each of the following bodies shall be eligible for funding under the Programme:

- (a) national or regional administrations of a participating country, as referred to in Article 7(1), which promote the strengthening of action at Union level to protect the financial interests of the Union;
- (b) research and educational institutes and non-profit-making entities provided that they have been established and have been operating for at least one year, in a participating country, as referred to in Article 7(1), and promote the strengthening of action at Union level to protect the financial interests of the Union.

*Article 7***Participation in the Programme**

1. Participating countries shall be the Member States and the countries referred to in paragraph 2 ('participating countries').

2. The Programme shall be open to the participation of any of the following countries:

- (a) acceding States, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those States and countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements;
- (b) partner countries under the European Neighbourhood Policy provided that these countries have reached a sufficient level of alignment of the relevant legislation and administrative methods with those of the Union. The partner countries concerned shall participate in the Programme in accordance with provisions to be determined with those countries following the establishment of framework agreements concerning their participation in Union programmes;
- (c) the countries of the European Free Trade Association (EFTA) participating in the European Economic Area (EEA), in accordance with the conditions laid down in the Agreement on the European Economic Area.

3. Representatives of countries forming part of the stabilisation and association process for countries of South-Eastern Europe, the Russian Federation, of certain countries with which the Union has concluded an agreement for mutual assistance in fraud-related matters, and of international and other relevant organisations, may take part in activities organised under the Programme wherever this is useful for the achievement of the general and specific objectives provided for in Articles 3 and 4 respectively. Those representatives shall participate in the Programme in accordance with the relevant provisions of Regulation (EU, Euratom) No 966/2012.

*Article 8***Eligible actions**

The Programme shall provide, under the conditions set out in the annual work programmes referred to in Article 11, appropriate financial support for all of the following actions:

- (a) provision of specialised technical assistance for the competent authorities of the Member States through one or more of the following:
 - (i) providing specific knowledge, specialised and technically advanced equipment and effective information technology (IT) tools facilitating transnational cooperation and cooperation with the Commission;
 - (ii) ensuring the necessary support and facilitating investigations, in particular the setting up of joint investigation teams and cross-border operations;
 - (iii) supporting Member States' capacity to store and destroy seized cigarettes, as well as independent analytical services for the analysis of seized cigarettes;
 - (iv) enhancing staff exchanges for specific projects, in particular in the field of the fight against cigarette smuggling and counterfeiting;
 - (v) providing technical and operational support for the law enforcement authorities of the Member States in their fight against illegal cross-border activities and fraud affecting the financial interests of the Union, including in particular support for customs authorities;
 - (vi) building information technology capacity throughout participating countries by developing and providing specific databases and IT tools facilitating data access and analysis;
 - (vii) increasing data exchange, developing and providing IT tools for investigations, and monitoring intelligence work;
- (b) organisation of targeted specialised training, and risk analysis training workshops, as well as, where appropriate, conferences, aimed at one or more of the following:
 - (i) further fostering better understanding of Union and national mechanisms;
 - (ii) exchanging experience and best practices between the relevant authorities in the participating countries, including specialised law enforcement services, as well as representatives of international organisations as referred to in Article 7(3);
 - (iii) coordinating the activities of participating countries, and representatives of international organisations, as referred to in Article 7(3);

- (iv) disseminating knowledge, particularly on better identification of risk for investigative purposes;
 - (v) developing high-profile research activities, including studies;
 - (vi) improving cooperation between practitioners and academics;
 - (vii) further raising the awareness of the judiciary and other branches of the legal profession for the protection of the financial interests of the Union;
- (c) any other action not covered under point (a) or (b) of this Article, provided for in the annual work programmes referred to in Article 11, which is necessary for attaining the general, the specific and the operational objectives provided for in Articles 3, 4 and 5 respectively.
- (a) grants;
 - (b) public procurement;
 - (c) the reimbursement of costs for participation in activities under the Programme incurred by the representatives referred to in Article 7(3).
3. The purchase of equipment shall not be the sole component of the grant agreement.
4. The co-financing rate for grants awarded under the Programme shall not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the annual work programmes referred to in Article 11, such as cases concerning Member States exposed to a high risk in relation to the financial interests of the Union, the co-financing rate shall not exceed 90 % of the eligible costs.

CHAPTER II

FINANCIAL FRAMEWORK

Article 9

Financial envelope

1. The financial envelope for the implementation of the Programme for the period from 1 January 2014 to 31 December 2020 shall be EUR 104 918 000, in current prices.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

2. Within the financial envelope for the Programme, indicative amounts shall be allocated to the eligible actions listed in Article 8, within the percentages set out in the Annex for each type of action. The Commission may depart from the indicative allocation of funds laid down in the Annex, but may not increase the allocated share of the financial envelope by more than 20 % for each type of action.

Should it prove necessary to exceed that 20 % limit, the Commission shall be empowered to adopt delegated acts in accordance with Article 14 to modify the indicative allocation of funds laid down in the Annex.

Article 10

Type of financial intervention and co-financing

1. The Commission shall implement the Programme in accordance with Regulation (EU, Euratom) No 966/2012.

2. Financial support under the Programme for eligible actions listed in Article 8 shall take the form of any of the following:

Article 11

Annual work programmes

In order to implement the Programme, the Commission shall adopt annual work programmes. They shall ensure that the general, specific and operational objectives provided for in Articles 3, 4 and 5 respectively are implemented in a consistent manner and shall outline the expected results, the method of implementation and their total amount. In the case of grants, the annual work programmes shall include the actions financed, the selection and award criteria and the maximum co-financing rate.

Resources allocated to communication actions under the Programme shall also contribute to cover the corporate communication of the Union's political priorities, as far as they are related to the general objective provided for in Article 3.

Article 12

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

3. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under the Programme.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

CHAPTER III

MONITORING, EVALUATION AND DELEGATED POWERS

Article 13

Monitoring and evaluation

1. The Commission shall provide the European Parliament and the Council, on an annual basis, with information on the implementation of the Programme, including on the achievement of the objectives of the Programme and the results. Information on cooperation and coordination between the Commission and the Member States and on consistency and complementarity with other relevant programmes and actions at Union level shall be included. The Commission shall on an ongoing basis disseminate, including on relevant websites, the results of the activities supported under the Programme to increase transparency on the use of the funds.

2. The Commission shall carry out a thorough evaluation of the Programme and present to the European Parliament and to the Council:

(a) by 31 December 2017, an independent mid-term evaluation report on the achievement of the objectives of all the actions, results and impacts, the effectiveness and efficiency of the use of resources and its added value to the Union, in view of a decision on the renewal, modification or suspension of the actions; the mid-term evaluation report shall additionally address the scope for simplification, internal and external coherence of the Programme, the continued relevance of all objectives of the Programme, as well as the contribution of the actions to the Union's priorities of smart, sustainable and inclusive growth; it shall also take into account evaluation results on the achievements of the objectives of the Hercule II programme;

⁽¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽²⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

(b) by 31 December 2021, a final evaluation report on the achievement of the objectives of the Programme, including its added value; furthermore, the long-term impacts and the sustainability of effects of the Programme shall be evaluated with a view to feeding into a decision on a possible renewal, modification or suspension of any subsequent programme.

3. All participating countries and other beneficiaries shall provide the Commission with all the data and information necessary to increase transparency and accountability and to permit the monitoring and evaluation, including on cooperation and coordination, of the Programme as referred to in paragraphs 1 and 2.

Article 14

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9 shall be conferred on the Commission for a period of seven years from 21 March 2014.

3. The delegation of power referred to in Article 9 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 9 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

CHAPTER IV

FINAL PROVISIONS

Article 15

Repeal

Decision No 804/2004/EC is repealed.

However, financial obligations relating to actions pursued under that Decision and reporting obligations specified therein shall continue to be governed by that Decision until the completion of those obligations.

*Article 16***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX

INDICATIVE ALLOCATION OF FUNDS

The indicative allocation of funds to eligible actions listed in Article 8 is the following:

Types of action	Share of the budget (in %)
(a) Technical assistance	At least 70
(b) Training	Maximum 25
(c) Any other action not covered under point (a) or (b) of Article 8	Maximum 5

Statement by the Commission on Article 13

Without prejudice to the annual budgetary procedure, it is the Commission's intention to present in the context of a structured dialogue with the European Parliament an annual report on the implementation of the Regulation, including the budget breakdown set out in the Annex, starting from January 2015 and the work programme to the responsible Committee in the European Parliament in the context of the PIF report.

REGULATION (EU) No 251/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

on the definition, description, presentation, labelling and the protection of geographical indications
of aromatised wine products and repealing Council Regulation (EEC) No 1601/91

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Council Regulation (EEC) No 1601/91 ⁽³⁾ and Commission Regulation (EC) No 122/94 ⁽⁴⁾ have proved successful in regulating aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails ('aromatised wine products'). However, in the light of technologic innovation, market developments and evolving consumer expectations it is necessary to update the rules applicable to the definition, description, presentation, labelling and protection of geographical indications of certain aromatised wine products, while taking into account traditional production methods.

(2) Further amendments are needed as a consequence of the entry into force of the Lisbon Treaty, in order to align the powers conferred upon the Commission pursuant to Regulation (EEC) No 1601/91 to Articles 290 and 291 of the Treaty on the Functioning of the European Union

(TFEU). In view of the scope of those amendments, it is appropriate to repeal Regulation (EEC) No 1601/91 and to replace it with this Regulation. Regulation (EC) No 122/94 introduced rules on flavouring and addition of alcohol applicable to some aromatised wine products, and in order to ensure clarity, those rules should be incorporated into this Regulation.

(3) Regulation (EU) No 1169/2011 of the European Parliament and of the Council ⁽⁵⁾ applies to the presentation and labelling of aromatised wine products, save as otherwise provided for in this Regulation.

(4) Aromatised wine products are important for consumers, producers and the agricultural sector in the Union. The measures applicable to aromatised wine products should contribute to the attainment of a high level of consumer protection, the prevention of deceptive practices and the attainment of market transparency and fair competition. By doing so, the measures will safeguard the reputation that the Union's aromatised wine products have achieved in the internal market and on the world market by continuing to take into account the traditional practices used in the production of aromatised wine products as well as increased demand for consumer protection and information. Technological innovation should also be taken into account in respect of the products for which such innovation serves to improve quality, without affecting the traditional character of the aromatised wine products concerned.

(5) The production of aromatised wine products constitutes a major outlet for the agricultural sector of the Union, which should be emphasised by the regulatory framework.

(6) In the interest of consumers, this Regulation should apply to all aromatised wine products placed on the market in the Union, whether produced in the Member States or in third countries. In order to maintain and improve the reputation of the Union's aromatised wine products on the world market, the rules provided for in this Regulation should also apply to aromatised wine products produced in the Union for export.

⁽¹⁾ OJ C 43, 15.2.2012, p. 67.

⁽²⁾ Position of the European Parliament of 14 January 2014 (not yet published in the Official Journal) and decision of the Council of 17 February 2014.

⁽³⁾ Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails (OJ L 149, 14.6.1991, p. 1).

⁽⁴⁾ Commission Regulation (EC) No 122/94 of 25 January 1994 laying down certain detailed rules for the application of Council Regulation (EEC) No 1601/91 on the definition, description and presentation of aromatized wines, aromatized wine-based drinks, and aromatized wine-product cocktails (OJ L 21, 26.1.1994, p. 7).

⁽⁵⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

- (7) To ensure clarity and transparency in Union law governing aromatised wine products, it is necessary to clearly define the products covered by that law, the criteria for the production, description, presentation and labelling of aromatised wine products and in particular, the sales denomination. Specific rules on the voluntary indication of the provenance supplementing those laid down in Regulation (EU) No 1169/2011 should also be laid down. By laying down such rules, all stages in the production chain are regulated and consumers are protected and properly informed.
- (8) The definitions of aromatised wine products should continue to respect traditional quality practices but should be updated and improved in the light of technological developments.
- (9) Aromatised wine products should be produced in accordance with certain rules and restrictions, which guarantee that consumer expectations as regards quality and production methods are met. In order to meet the international standards in this field, the production methods should be established and the Commission should as a general rule take into account the standards recommended and published by the International Organisation of Vine and Wine (OIV).
- (10) Regulation (EC) No 1333/2008 of the European Parliament and of the Council⁽¹⁾ and Regulation (EC) No 1334/2008 of the European Parliament and of the Council⁽²⁾ should apply to aromatised wine products.
- (11) Moreover, the ethyl alcohol used for the production of aromatised wine products should be exclusively of agricultural origin, so as to meet consumer expectations and conform to traditional quality practices. This will also ensure an outlet for basic agricultural products.
- (12) Given the importance and complexity of the aromatised wine products sector, it is appropriate to lay down specific rules on the description and presentation of aromatised wine products supplementing the labelling provisions laid down in Regulation (EU) No 1169/2011. Those specific rules should also prevent the misuse of sales denominations of aromatised wine products in the case of products which do not meet the requirements set out in this Regulation.
- (13) With a view to facilitating consumers' understanding, it should be possible to supplement the sales denominations laid down in this Regulation with the customary name of the product within the meaning of Regulation (EU) No 1169/2011.
- (14) Council Regulation (EC) No 834/2007⁽³⁾ applies, *inter alia*, to processed agricultural products for use as food, which includes aromatised wine products. Accordingly, aromatised wine products which meet the requirements laid down in that Regulation and the acts adopted pursuant to it may be placed on the market as organic aromatised wine products.
- (15) In applying a quality policy and in order to allow a high level of quality of aromatised wine products with a geographical indication, Member States should be allowed to adopt stricter rules than those laid down in this Regulation on the production, description, presentation and labelling of aromatised wine products with a geographical indication that are produced in their own territory, in so far as such rules are compatible with Union law.
- (16) Given that Regulation (EC) No 110/2008 of the European Parliament and of the Council⁽⁴⁾, Regulation (EU) No 1151/2012 of the European Parliament and of the Council⁽⁵⁾, and the provisions on geographical indications in Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁶⁾ do not apply to aromatised wine products, specific rules on protection of geographical indications for aromatised wine products should be laid down. Geographical indications should be used to identify aromatised wine products as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the aromatised wine product is essentially attributable to its geographical origin and such geographical indications should be registered by the Commission.
- ⁽¹⁾ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).
- ⁽²⁾ Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC (OJ L 354, 31.12.2008, p. 34).
- ⁽³⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).
- ⁽⁴⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).
- ⁽⁵⁾ 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 (OJ L 343, 14.12.2012, p. 1).
- ⁽⁶⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- (17) A procedure for the registration, compliance, alteration and possible cancellation of third country and Union geographical indications should be laid down in this Regulation.
- (18) Member State authorities should be responsible for ensuring compliance with this Regulation, and arrangements should be made for the Commission to be able to monitor and verify such compliance.
- (19) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the establishment of production processes for obtaining aromatised wine products; criteria for the demarcation of geographical areas and rules, restrictions and derogations related to production in such areas; the conditions under which a product specification may include additional requirements; the determination of the cases in which a single producer may apply for the protection of a geographical indication and the restrictions governing the type of applicant that may apply for such protection; the establishment of the conditions to be complied with in respect of an application for the protection of a geographical indication, scrutiny by the Commission, the objection procedure and procedures for amendment and cancellation of geographical indications; the establishment of the conditions applicable to trans-border applications; the setting of the date for the submission of an application or a request, the date from which the protection applies and the date on which an amendment to a protection applies; the establishment of the conditions relating to amendments to product specifications, including the conditions when an amendment is considered minor and the conditions relating to the applications for, and approval of, amendments, which do not involve any change to the single document; the restrictions regarding the protected name; the nature and type of information to be notified in the exchange of information between Member States and the Commission, the methods of notification, the rules related to the access rights to information or information systems made available and the modalities of publication of the information. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (20) In order to ensure uniform conditions for the implementation of this Regulation with regard to the methods of analysis for determining the composition of aromatised wine products; decisions on conferring protection on geographical indications and on rejecting applications for such protection; decisions on cancelling the protection of geographical indications and of existing geographical designations; decisions on approval of application for amendments in the case of minor amendments to the product specifications; the information to be provided in the product specification with regard to the definition of geographical indication; the means of making decisions on protection or rejection of geographical indications available to the public; relating to the submission of trans-border applications; checks and verifications to be carried out by Member States; the procedure, including admissibility, for the examination of applications for protection or for the approval of an amendment of a geographical indication, and the procedure, including admissibility, for requests for objection, cancellation or conversion and the submission of information relating to existing geographical designations; administrative and physical checks to be carried out by Member States; and rules on providing the information necessary for the application of the provision concerning the exchange of information between Member States and the Commission, the arrangements for the management of the information to be notified, the content, form, timing, frequency and deadlines of the notifications and arrangements for transmitting or making information and documents available to the Member States, the competent authorities in third countries, or the public; implementing power should be conferred on the Commission. Those implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (21) The Commission should, by means of implementing acts and, given their special nature, acting without applying Regulation (EU) No 182/2011, publish the single document in the *Official Journal of the European Union*, decide whether to reject an application for protection of a geographical indication on grounds of inadmissibility and establish and maintain a register of geographical indications protected under this Regulation, including the listing of existing geographical designations in that register or their removal from the register.
- (22) The transition from the rules provided for in Regulation (EEC) No 1601/91 to those laid down in this Regulation could give rise to difficulties which are not dealt with in this Regulation. For that purpose, the power to adopt the necessary transitional measures should be delegated to the Commission.
- (23) Sufficient time and appropriate arrangements should be allowed to facilitate a smooth transition from the rules provided for in Regulation (EEC) No 1601/91 to the rules laid down in this Regulation. In any event the marketing of existing stocks should be allowed after the application of this Regulation, until those stocks are exhausted.
- ⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (24) Since the objectives of this Regulation, namely the establishment of the rules on the definition, description, presentation and labelling of aromatised wine products and rules on the protection of geographical indications of aromatised wine products, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1. This Regulation lays down rules on the definition, description, presentation and labelling of aromatised wine products as well as on the protection of geographical indications of aromatised wine products.
2. Regulation (EU) No 1169/2011 shall apply to the presentation and labelling of aromatised wine products, save as otherwise provided for in this Regulation.
3. This Regulation shall apply to all aromatised wine products placed on the market in the Union whether produced in the Member States or in third countries, as well as to those produced in the Union for export.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) 'sales denomination' means the name of any of the aromatised wine products laid down in this Regulation;
- (2) 'description' means the list of the specific characteristics of an aromatised wine product;
- (3) 'geographical indication' means an indication which identifies an aromatised wine product as originating in a region, a specific place, or a country, where a given quality, reputation or other characteristics of that product is essentially attributable to its geographical origin.

CHAPTER II

DEFINITION, DESCRIPTION, PRESENTATION AND LABELLING OF AROMATISED WINE PRODUCTS

Article 3

Definition and classification of aromatised wine products

1. Aromatised wine products are products obtained from products of the wine sector as referred to in Regulation (EU) No 1308/2013 that have been flavoured. They are classified into the following categories:

- (a) aromatised wines;
- (b) aromatised wine-based drinks;
- (c) aromatised wine-product cocktails.

2. Aromatised wine is a drink:

- (a) obtained from one or more of the grapevine products defined in point 5 of Part IV of Annex II and in points 1 and 3 to 9 of Part II of Annex VII to Regulation (EU) No 1308/2013, with the exception of 'Retsina' wine;
- (b) in which the grapevine products referred to in point (a) represent at least 75 % of the total volume;
- (c) to which alcohol may have been added;
- (d) to which colours may have been added;
- (e) to which grape must, partially fermented grape must or both may have been added;
- (f) which may have been sweetened;
- (g) which has an actual alcoholic strength by volume of not less than 14,5 % vol. and less than 22 % vol. and a total alcoholic strength by volume of not less than 17,5 % vol.

3. Aromatised wine-based drink is a drink:

- (a) obtained from one or more of the grapevine products defined in points 1, 2 and 4 to 9 of Part II of Annex VII to Regulation (EU) No 1308/2013, with the exception of wines produced with the addition of alcohol and 'Retsina' wine;
- (b) in which the grapevine products referred to in point (a) represent at least 50 % of the total volume;
- (c) to which no alcohol has been added, except where Annex II provides otherwise;
- (d) to which colours may have been added;

- (e) to which grape must, partially fermented grape must or both may have been added;
- (f) which may have been sweetened;
- (g) which has an actual alcoholic strength by volume of not less than 4,5 % vol. and less than 14,5 % vol.

4. Aromatised wine-product cocktail is a drink:

- (a) obtained from one or more of the grapevine products defined in points 1, 2 and 4 to 11 of Part II of Annex VII to Regulation (EU) No 1308/2013, with the exception of wines produced with the addition of alcohol and 'Retsina' wine;
- (b) in which the grapevine products referred to in point (a) represent at least 50 % of the total volume;
- (c) to which no alcohol has been added;
- (d) to which colours may have been added;
- (e) which may have been sweetened;
- (f) which has an actual alcoholic strength by volume of more than 1,2 % vol. and less than 10 % vol.

Article 4

Production processes and methods of analysis for aromatised wine products

1. Aromatised wine products shall be produced in accordance with the requirements, restrictions and descriptions laid down in Annexes I and II.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning the establishment of authorised production processes for obtaining aromatised wine products, taking into account consumers' expectations.

In establishing the authorised production processes referred to in the first subparagraph, the Commission shall take into account the production processes recommended and published by the OIV.

3. The Commission shall, where necessary, adopt, by means of implementing acts, methods of analysis for determining the composition of aromatised wine products. Those methods shall be based on any relevant methods recommended and published by the OIV, unless they would be ineffective or inappropriate in view of the objective pursued. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Pending the adoption of such methods by the Commission, the methods to be used shall be those allowed by the Member State concerned.

4. The oenological practices and restrictions laid down in accordance with Articles 74, 75(4) and 80 of Regulation (EU) No 1308/2013 shall apply to the grapevine products used in the production of aromatised wine products.

Article 5

Sales denominations

1. The sales denominations set out in Annex II shall be used for any aromatised wine product placed on the market in the Union, provided that it complies with the requirements for the corresponding sales denomination laid down in that Annex. Sales denominations may be supplemented by a customary name as defined in Article 2(2)(o) of Regulation (EU) No 1169/2011.

2. Where aromatised wine products comply with the requirements of more than one sales denomination, the use of only one of those sales denominations is authorised, except where Annex II provides otherwise.

3. An alcoholic beverage not fulfilling the requirements laid down in this Regulation shall not be described, presented or labelled by associating words or phrases such as 'like', 'type', 'style', 'made', 'flavour' or any other term similar to any of the sales denominations.

4. Sales denominations may be supplemented or replaced by a geographical indication protected under this Regulation.

5. Without prejudice to Article 26, sales denominations shall not be supplemented by protected designations of origin or protected geographical indications allowed for wine products.

Article 6

Additional particulars to the sales denominations

1. The sales denominations referred to in Article 5 may also be supplemented by the following particulars concerning the sugar content of the aromatised wine product:

- (a) 'extra-dry': in the case of products with a sugar content of less than 30 grams per litre and, for the category of aromatised wines and by way of derogation from Article 3(2)(g), a minimum total alcoholic strength by volume of 15 % vol.;
- (b) 'dry': in the case of products with a sugar content of less than 50 grams per litre and, for the category of aromatised wines and by way of derogation from Article 3(2)(g), a minimum total alcoholic strength by volume of 16 % vol.;

- (c) 'semi-dry': in the case of products with a sugar content of between 50 and less than 90 grams per litre;
- (d) 'semi-sweet': in the case of products with a sugar content of between 90 and less than 130 grams per litre;
- (e) 'sweet': in the case of products with a sugar content of 130 grams per litre or more.

The sugar content indicated in points (a) to (e) of the first subparagraph is expressed as invert sugar.

The particulars 'semi-sweet' and 'sweet' may be accompanied by an indication of the sugar content, expressed in grams of invert sugar per litre.

2. Where the sales denomination is supplemented by or includes the particular 'sparkling', the quantity of sparkling wine used shall be not less than 95 %.

3. Sales denominations may also be supplemented by a reference to the main flavouring used.

Article 7

Indication of provenance

Where the provenance of aromatised wine products is indicated, it shall correspond to the place where the aromatised wine product is produced. The provenance shall be indicated with the words 'produced in (...)', or expressed in equivalent terms, supplemented by the name of the corresponding Member State or third country.

Article 8

Use of language in the presentation and labelling of aromatised wine products

1. The sales denominations set out in italics in Annex II shall not be translated on the label or in the presentation of aromatised wine products.

Additional particulars provided for in this Regulation shall, where expressed in words, appear in at least one of the official languages of the Union.

2. The name of the geographical indication protected under this Regulation shall appear on the label in the language or languages in which it is registered, even where the geographical indication replaces the sales denomination in accordance with Article 5(4).

Where the name of a geographical indication protected under this Regulation is written in a non-Latin alphabet, it may also appear in one or more of the official languages of the Union.

Article 9

Stricter rules decided by Member States

In applying a quality policy for aromatised wine products with geographical indications protected under this Regulation which

are produced on their own territory or for the establishment of new geographical indications, Member States may lay down rules on production and description which are stricter than those referred to in Article 4 and in Annexes I and II in so far as they are compatible with Union law.

CHAPTER III

GEOGRAPHICAL INDICATIONS

Article 10

Content of applications for protection

1. Applications for the protection of names as geographical indications shall include a technical file containing:

- (a) the name to be protected;
- (b) the name and address of the applicant;
- (c) a product specification as referred to in paragraph 2; and
- (d) a single document summarising the product specification referred to in paragraph 2.

2. To be eligible for a geographical indication protected under this Regulation a product shall comply with the corresponding product specification which shall include at least:

- (a) the name to be protected;
- (b) a description of the product, in particular its principal analytical characteristics as well as an indication of its organoleptic characteristics;
- (c) where applicable, the particular production processes and specifications as well as the relevant restrictions on making the product;
- (d) the demarcation of the geographical area concerned;
- (e) the details bearing out the link referred to in point (3) of Article 2;
- (f) the applicable requirements laid down in Union or national law or, where provided for by Member States, by an organisation which manages the protected geographical indication, having regard to the fact that such requirements shall be objective, and non-discriminatory and compatible with Union law;
- (g) an indication of the main raw material from which the aromatised wine product is obtained;
- (h) the name and address of the authorities or bodies verifying compliance with the provisions of the product specification and their specific tasks.

Article 11

Application for protection relating to a geographical area in a third country

1. Where the application for protection concerns a geographical area in a third country, it shall contain in addition to the elements provided for in Article 10, proof that the name in question is protected in its country of origin.
2. The application for protection shall be sent to the Commission, either directly by the applicant or via the authorities of the third country concerned.
3. The application for protection shall be filed in one of the official languages of the Union or accompanied by a certified translation into one of those languages.

Article 12

Applicants

1. Any interested group of producers, or in exceptional cases a single producer, may lodge an application for protection of a geographical indication. Other interested parties may participate in the application for protection.
2. Producers may lodge an application for protection only for aromatised wine products which they produce.
3. In the case of a name designating a trans-border geographical area, a joint application for protection may be lodged.

Article 13

Preliminary national procedure

1. Applications for protection of a geographical indication of aromatised wine products originating in the Union shall be subject to a preliminary national procedure in accordance with paragraphs 2 to 7 of this Article.
2. The application for protection shall be filed with the Member State in whose territory the geographical indication originates.
3. The Member State shall examine the application for protection in order to verify whether it meets the conditions set out in this Chapter.

The Member State shall, by means of a national procedure, ensure the adequate publication of the application for protection and shall provide for a period of at least two months from the date of publication within which any natural or legal person with a legitimate interest and resident or established on its territory may object to the proposed protection by lodging a duly substantiated statement with the Member State.

4. If the Member State considers that the geographical indication does not meet the relevant requirements or is incompatible with Union law in general, it shall reject the application.

5. If the Member State considers that the relevant requirements are met, it shall:

- (a) publish the single document and the product specification at least on the internet; and
- (b) forward to the Commission an application for protection containing the following information:
 - (i) the name and address of the applicant;
 - (ii) the product specification referred in Article 10(2);
 - (iii) the single document referred to in Article 10(1)(d);
 - (iv) a declaration by the Member State that it considers that the application lodged by the applicant meets the conditions required; and
 - (v) the reference to the publication, as referred to in point (a).

The information referred to in point (b) of the first subparagraph shall be forwarded in one of the official languages of the Union or accompanied by a certified translation into one of those languages.

6. Member States shall adopt the laws, regulations or administrative provisions necessary to comply with this Article by 28 March 2015.

7. Where a Member State has no national legislation concerning the protection of geographical indications, it may, on a transitional basis only, grant protection to the name in accordance with the terms of this Chapter at national level. Such protection shall take effect from the date the application is lodged with the Commission and shall cease on the date on which a decision on registration or refusal under this Chapter is taken.

Article 14

Scrutiny by the Commission

1. The Commission shall make the date of submission of the application for protection public.
2. The Commission shall examine whether the applications for protection referred to in Article 13(5) meet the conditions laid down in this Chapter.
3. Where the Commission considers that the conditions laid down in this Chapter are met, it shall, by means of implementing acts adopted without applying the procedure referred to in Article 34(2), publish in the *Official Journal of the European Union* the single document referred to in Article 10(1)(d) and the reference to the publication of the product specification referred to in Article 13(5)(a).

4. Where the Commission considers that the conditions laid down in this Chapter are not met, it shall, by means of implementing acts, decide to reject the application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 15

Objection procedure

Within two months from the date of publication provided for in Article 14(3), any Member State or third country, or any natural or legal person with a legitimate interest, resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by lodging with the Commission a duly substantiated statement relating to the conditions of eligibility as laid down in this Chapter.

In the case of natural or legal persons resident or established in a third country, such statement shall be lodged, either directly or via the authorities of the third country concerned, within the time limit of two months referred to in the first paragraph.

Article 16

Decision on protection

On the basis of the information available to the Commission upon the completion of the objection procedure referred to in Article 15, the Commission shall, by means of implementing acts, either confer protection on the geographical indication which meets the conditions laid down in this Chapter and is compatible with Union law, or reject the application where those conditions are not met. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 17

Homonyms

1. A name, for which an application for protection is lodged, and which is wholly or partially homonymous with that of a name already registered under this Regulation, shall be registered with due regard for local and traditional usage and for any risk of confusion.

2. A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.

3. The use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.

Article 18

Grounds for refusal of protection

1. Names that have become generic shall not be protected as a geographical indication.

For the purposes of this Chapter, a 'name that has become generic' means the name of an aromatised wine product which, although relating to the place or the region where this product was originally produced or placed on the market, has become the common name of an aromatised wine product in the Union.

To establish whether or not a name has become generic, account shall be taken of all relevant factors, in particular:

- (a) the existing situation in the Union, notably in areas of consumption;
- (b) the relevant Union or national law.

2. A name shall not be protected as a geographical indication where, in the light of a trademark's reputation and renown, protection is liable to mislead the consumer as to the true identity of the aromatised wine product.

Article 19

Relationship with trademarks

1. Where a geographical indication is protected under this Regulation, the registration of a trademark the use of which falls under Article 20(2) and relating to an aromatised wine product shall be refused if the application for registration of the trademark is submitted after the date of submission of the application for protection of the geographical indication to the Commission and the geographical indication is subsequently protected.

Trademarks registered in breach of the first subparagraph shall be invalidated.

2. Without prejudice to Article 17(2), a trademark the use of which falls under Article 20(2), which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of the Union before the date on which the application for protection of the geographical indication is submitted to the Commission, may continue to be used and renewed notwithstanding the protection of a geographical indication, provided that no grounds for the trademark's invalidity or revocation exist as specified by the Directive 2008/95/EC of the European Parliament of the Council⁽¹⁾ or by Council Regulation (EC) No 207/2009⁽²⁾.

In such cases the use of the geographical indication shall be permitted alongside the relevant trademarks.

⁽¹⁾ Directive 2008/95/EC of the European Parliament of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ L 299, 8.11.2008, p. 25).

⁽²⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).

Article 20

Protection

1. Geographical indications protected under this Regulation may be used by any operator marketing an aromatised wine product which has been produced in conformity with the corresponding product specification.

2. Geographical indications protected under this Regulation and the aromatised wine products using those protected names in conformity with the product specification shall be protected against:

(a) any direct or indirect commercial use of a protected name:

(i) by comparable products not complying with the product specification of the protected name; or

(ii) in so far as such use exploits the reputation of a geographical indication;

(b) any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated, transcribed or transliterated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation', 'flavour', 'like' or similar;

(c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;

(d) any other practice liable to mislead the consumer as to the true origin of the product.

3. Geographical indications protected under this Regulation shall not become generic in the Union within the meaning of Article 18(1).

4. Member States shall take the appropriate administrative and judicial measures to prevent or to stop unlawful use of geographical indications protected under this Regulation as referred to in paragraph 2.

Article 21

Register

The Commission shall, by means of implementing acts adopted without applying the procedure referred to in Article 34(2), establish and maintain an electronic register of geographical indications protected under this Regulation for aromatised wine products which shall be publicly accessible.

Geographical indications pertaining to products of third countries that are protected in the Union pursuant to an international agreement to which the Union is a contracting party may be entered in the register referred to in the first paragraph as geographical indications protected under this Regulation.

Article 22

Designation of competent authority

1. Member States shall designate the competent authority or authorities responsible for checks in respect of the obligations established by this Chapter in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council ⁽¹⁾.

2. Member States shall ensure that any operator complying with this Chapter is entitled to be covered by a system of checks.

3. Member States shall inform the Commission of the competent authority or authorities referred to in paragraph 1. The Commission shall make their names and addresses public and update them periodically.

Article 23

Verification of compliance with specifications

1. In respect of geographical indications protected under this Regulation relating to a geographical area within the Union, annual verification of compliance with the product specification, during the production and during or after conditioning of the aromatised wine product, shall be ensured by:

(a) the competent authority or authorities referred to in Article 22; or

(b) one or more control bodies responsible for the verification within the meaning of point 5 of the second paragraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the requirements laid down in Article 5 of that Regulation.

The costs of such verification shall be borne by the operators subject to it.

2. In respect of geographical indications protected under this Regulation relating to a geographical area in a third country, annual verification of compliance with the product specification, during the production and during or after conditioning of the aromatised wine product, shall be ensured by:

(a) one or more public authorities designated by the third country; or

(b) one or more certification bodies.

⁽¹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

3. The bodies referred to in point (b) of paragraph 1 and point (b) of paragraph 2 shall comply with, and be accredited in accordance with, the Standard EN ISO/IEC 17065:2012 (Conformity assessments — Requirements for bodies certifying products processes and services).

4. Where the authority or authorities referred to in point (a) of paragraph 1 and point (a) of paragraph 2 verify compliance with the product specification, they shall offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

Article 24

Amendments to product specifications

1. An applicant satisfying the conditions of Article 12 may apply for approval of an amendment to the product specification of a geographical indication protected under this Regulation, in particular in order to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in point (d) of Article 10(2). Applications shall describe and give reasons for the amendments requested.

2. Where the proposed amendment involves one or more changes to the single document referred to in point (d) of Article 10(1), Articles 13 to 16 shall apply *mutatis mutandis* to the application for amendment. However, if the proposed amendment is only minor, the Commission shall, by means of implementing acts, decide whether to approve the application without following the procedure laid down in Article 14(2) and Article 15 and in the case of approval, the Commission shall proceed to the publication of the elements referred to in Article 14(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 25

Cancellation

The Commission may, on its own initiative or at the duly substantiated request of a Member State, of a third country or of a natural or legal person having a legitimate interest, decide, by means of implementing acts, to cancel the protection of a geographical indication if compliance with the corresponding product specification is no longer ensured. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Articles 13 to 16 shall apply *mutatis mutandis*.

Article 26

Existing geographical designations

1. Geographical designations of aromatised wine products listed in Annex II to Regulation (EEC) No 1601/91 and any geographical designation submitted to a Member State and approved by that Member State before 27 March 2014, shall automatically be protected as geographical indications under

this Regulation. The Commission shall, by means of implementing acts adopted without applying the procedure referred to in Article 34(2) of this Regulation, list them in the register provided for in Article 21 of this Regulation.

2. Member States shall, in respect of existing geographical designations referred to in paragraph 1, transmit to the Commission:

(a) the technical files as provided for in Article 10(1);

(b) the national decisions of approval.

3. Existing geographical designations referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 28 March 2017, shall lose protection under this Regulation. The Commission shall, by means of implementing acts adopted without applying the procedure referred to in Article 34(2), take the corresponding formal step of removing such names from the register provided for in Article 21.

4. Article 25 shall not apply in respect of existing geographical designations referred to in paragraph 1 of this Article.

Until 28 March 2018 the Commission may, by means of implementing acts, on its own initiative, decide to cancel the protection of existing geographical designations referred to in paragraph 1 of this Article if they do not comply with point (3) of Article 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 27

Fees

Member States may charge a fee to cover their costs, including those incurred in examining applications for protection, statements of objections, applications for amendments and requests for cancellations under this Chapter.

Article 28

Delegated powers

1. In order to take account of the specific characteristics of the production in the demarcated geographical area, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning:

(a) criteria for the demarcation of the geographical area; and

(b) rules, restrictions and derogations related to the production in the demarcated geographical area.

2. In order to ensure product quality and traceability, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 in order to establish the conditions under which product specifications may include additional requirements to those referred to in Article 10(2)(f).

3. In order to ensure the rights or legitimate interests of producers or operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 in order to:

- (a) determine the cases in which a single producer may apply for the protection of a geographical indication;
- (b) determine the restrictions governing the type of applicant that may apply for the protection of a geographical indication;
- (c) establish the conditions to be followed in respect of an application for the protection of a geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment and cancellation of geographical indications;
- (d) establish the conditions applicable to transborder applications;
- (e) set the date of submission of an application or a request;
- (f) set the date from which protection shall run;
- (g) establish the conditions under which an amendment is to be considered as minor as referred to in Article 24(2);
- (h) set the date on which an amendment shall enter into force;
- (i) establish the conditions relating to the applications for, and approval of, amendments to the product specification of a geographical indication protected under this Regulation, where such amendments do not involve any change to the single document referred to in point (d) of Article 10(1).

4. In order to ensure adequate protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning the restrictions regarding the protected name.

Article 29

Implementing powers

1. The Commission may, by means of implementing acts, adopt all necessary measures related to this Chapter regarding:
- (a) the information to be provided in the product specification with regard to the link referred to in point (3) of Article 2 between the geographical area and the final product;
 - (b) the means of making the decisions on protection or rejection referred to in Article 16 available to the public;
 - (c) the submission of trans-border applications;

- (d) checks and verification to be carried out by the Member States, including testing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

2. The Commission may, by means of implementing acts, adopt all necessary measures related to this Chapter as regards the procedure, including admissibility, for the examination of applications for protection or for the approval of an amendment of a geographical indication, as well as the procedure, including admissibility, for requests for objection, cancellation, or conversion, and the submission of information relating to existing protected geographical designations, in particular with respect to:

- (a) models for documents and the transmission format;
- (b) time limits;
- (c) the details of the facts, evidence and supporting documents to be submitted in support of the application or request.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 30

Inadmissible application or request

Where an application or a request submitted under this Chapter is deemed inadmissible, the Commission shall, by means of implementing acts adopted without applying the procedure referred to in Article 34(2), decide to reject it as inadmissible.

CHAPTER IV

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

Article 31

Checks and verification of aromatised wine products

1. Member States shall be responsible for the checks of aromatised wine products. They shall take the measures necessary to ensure compliance with the provisions of this Regulation and in particular they shall designate the competent authority or authorities responsible for checks in respect of the obligations established by this Regulation in accordance with Regulation (EC) No 882/2004.

2. The Commission shall, when necessary, by means of implementing acts, adopt the rules concerning administrative and physical checks to be conducted by the Member States with regard to the respect of obligations resulting from the application of this Regulation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 32

Exchange of information

1. Member States and the Commission shall notify each other of any information necessary for the application of this Regulation and for complying with the international obligations concerning the aromatised wine products. That information may, where appropriate, be transmitted or made available to the competent authorities of third countries and may be made public.

2. In order to make the notifications referred to in paragraph 1 fast, efficient, accurate, and cost effective, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 to lay down:

- (a) the nature and type of the information to be notified;
- (b) the methods of notification;
- (c) the rules related to the access rights to the information or information systems made available;
- (d) the conditions and means of publication of the information.

3. The Commission shall, by means of implementing acts, adopt:

- (a) rules on providing the information necessary for the application of this Article;
- (b) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (c) arrangements for transmitting or making information and documents available to the Member States, the competent authorities in third countries, or the public.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 33

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 4(2), 28, 32(2) and 36(1) shall be conferred on the Commission for a period of five years from 27 March 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 4(2), 28, 32(2) and 36(1) may be revoked at any time by the European

Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 4(2), 28, 32(2) and 36(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months on the initiative of the European Parliament or the Council.

Article 34

Committee procedure

1. The Commission shall be assisted by the Committee on aromatised wine products. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of implementing acts referred to in the first subparagraph of Article 4(3) and Article 29(1)(b), where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 35

Repeal

Regulation (EEC) No 1601/91 is hereby repealed as from 28 March 2015.

References made to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III to this Regulation.

Article 36

Transitional measures

1. In order to facilitate the transition from the rules provided for in Regulation (EEC) No 1601/91 to those established by this Regulation, the Commission shall be empowered to adopt, where appropriate, delegated acts in accordance with Article 33 concerning the adoption of measures to amend or derogate from this Regulation, which shall remain in force until 28 March 2018.

2. Aromatised wine products not meeting the requirements of this Regulation but which have been produced in accordance with Regulation (EEC) No 1601/91 prior to 27 March 2014 may be placed on the market until stocks are exhausted.

3. Aromatised wine products which comply with Articles 1 to 6 and Article 9 of this Regulation and which have been produced prior to 27 March 2014 may be placed on the market until stocks are exhausted, provided that such

products comply with Regulation (EEC) No 1601/91 in respect of all aspects not regulated by Articles 1 to 6 and Article 9 of this Regulation.

Article 37

Entry into force

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

It shall apply from 28 March 2015. However, Article 36(1) and (3) shall apply from 27 March 2014.

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

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I

TECHNICAL DEFINITIONS, REQUIREMENTS AND RESTRICTIONS

(1) Flavouring

(a) The following products are authorised for the flavouring of aromatised wines:

(i) natural flavouring substances and/or flavouring preparations as defined in Article 3(2)(c) and (d) of Regulation (EC) No 1334/2008;

(ii) flavourings as defined in Article 3(2)(a) of Regulation (EC) No 1334/2008, which:

- are identical to vanillin,
- smell and/or taste of almonds,
- smell and/or taste of apricots,
- smell and/or taste of eggs; and

(iii) aromatic herbs and/or spices and/or flavouring foodstuffs.

(b) The following products are authorised for the flavouring of aromatised wine-based drinks and aromatised wine-product cocktails:

(i) flavouring substances and/or flavouring preparations as defined in Article 3(2)(b) and (d) of Regulation (EC) No 1334/2008; and

(ii) aromatic herbs and/or spices and/or flavouring foodstuffs.

Addition of such substances confers on the final product organoleptic characteristics other than those of wine.

(2) Sweetening

The following products are authorised for the sweetening of aromatised wine products:

(a) semi-white sugar, white sugar, extra-white sugar, dextrose, fructose, glucose syrup, sugar solution, invert sugar solution, invert sugar syrup, as defined in Council Directive 2001/111/EC ⁽¹⁾;

(b) grape must, concentrated grape must and rectified concentrated grape must, as defined in points 10, 13 and 14 of Part II of Annex VII to Regulation (EU) No 1308/2013;

(c) burned sugar, which is the product obtained exclusively from the controlled heating of sucrose without bases, mineral acids or other chemical additives;

(d) honey as defined in Council Directive 2001/110/EC ⁽²⁾;

(e) carob syrup;

(f) any other natural carbohydrate substances having a similar effect to those products.

(3) Addition of alcohol

The following products are authorised for the preparation of some aromatised wines and, some aromatised wine-based drinks:

(a) ethyl alcohol of agricultural origin, as defined in Annex I, point 1, to Regulation (EC) No 110/2008, including viticultural origin;

(b) wine alcohol or dried grape alcohol;

(c) wine distillate or dried grape distillate;

(d) distillate of agricultural origin, as defined in Annex I, point 2, to Regulation (EC) No 110/2008;

⁽¹⁾ Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption (OJ L 10, 12.1.2002, p. 53).

⁽²⁾ Council Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47).

- (e) wine spirit, as defined in Annex II, point 4, to Regulation (EC) No 110/2008;
- (f) grape-marc spirit, as defined in Annex II, point 6, to Regulation (EC) No 110/2008;
- (g) spirit drinks distilled from fermented dried grapes.

The ethyl alcohol used to dilute or dissolve colorants, flavourings or any other authorised additives used in the preparation of aromatised wine products must be of agricultural origin and must be used in the dose strictly necessary and is not considered as addition of alcohol for the purpose of production of an aromatised wine product.

(4) Additives and colouring

The rules on food additives, including colours, laid down in Regulation (EC) No 1333/2008 apply to aromatised wine products.

(5) Addition of water

For the preparation of aromatised wine products, the addition of water is authorised provided that it is used in the dose necessary:

- to prepare flavouring essence,
- to dissolve colorants and sweeteners,
- to adjust the final composition of the product.

The quality of the water added has to be in conformity with Directive 2009/54/EC of the European Parliament and of the Council ⁽¹⁾ and Council Directive 98/83/EC ⁽²⁾, and it should not change the nature of the product.

This water may be distilled, demineralised, permuted or softened.

(6) For the preparation of aromatised wine products, the addition of carbon dioxide is authorised.

(7) Alcoholic strength

'Alcoholic strength by volume' means the ratio of the volume of pure alcohol contained in the product in question at a temperature of 20 °C to the total volume of that product at the same temperature.

'Actual alcoholic strength by volume' means the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature.

'Potential alcoholic strength by volume' means the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at the same temperature.

'Total alcoholic strength by volume' means the sum of the actual and potential alcoholic strengths by volume.

⁽¹⁾ Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (recast) (OJ L 164, 26.6.2009, p. 45).

⁽²⁾ Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

ANNEX II

SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE PRODUCTS

A. SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINES

(1) Aromatised wine

Products complying with the definition set out in Article 3(2).

(2) Wine-based aperitif

Aromatised wine to which alcohol may have been added.

The use of the term 'aperitif' in this connection is without prejudice to its use to define products which do not fall within the scope of this Regulation.

(3) Vermouth

Aromatised wine:

- to which alcohol has been added, and
- whose characteristic taste has been obtained by the use of appropriate substances of *Artemisia* species.

(4) Bitter aromatised wine

Aromatised wine with a characteristic bitter flavour to which alcohol has been added.

The sales denomination 'bitter aromatised wine' is followed by the name of the main bitter-flavouring substance.

The sales denomination 'bitter aromatised wine' may be supplemented or replaced by the following terms:

- 'Quinquina wine', whose main flavouring is natural quinine flavouring,
- 'Bitter vino', whose main flavouring is natural gentian flavouring and which has been coloured with authorised yellow and/or red colour; the use of the word 'bitter' in this connection is without prejudice to its use to define products which do not fall within the scope of this Regulation,
- 'Americano', where the flavouring is due to the presence of natural flavouring substances derived from wormwood and gentian and which has been coloured with authorised yellow and/or red colours.

(5) Egg-based aromatised wine

Aromatised wine:

- to which alcohol has been added,
- to which good-quality egg yolk or extracts thereof have been added,
- which has a sugar content expressed in terms of invert sugar of more than 200 grams, and
- in the preparation of which the minimum quantity of egg yolk used in the mixture is 10 grams per litre.

The sales denomination 'egg-based aromatised wine' may be accompanied by the term '*cremovo*' where such product contains wine of the protected designation of origin 'Marsala' in a proportion of not less than 80 %.

The sales denomination 'egg-based aromatised wine' may be accompanied by the term '*cremovo zabaione*', where such product contains wine of the protected designation of origin 'Marsala' in a proportion of not less than 80 % and has an egg yolk content of not less than 60 grams per litre.

(6) *Väkevä viiniglögi/Starkvinsglögg*

An aromatised wine:

- to which alcohol has been added, and
- whose characteristic taste has been obtained by the use of cloves and/or cinnamon.

B. SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE BASED DRINKS

(1) Aromatised wine-based drink

Products complying with the definition set out in Article 3(3).

(2) Aromatised fortified wine-based drink

Aromatised wine-based drink

- to which alcohol has been added,
- which has actual alcoholic strength by volume not less than 7 % vol.,
- which has been sweetened,
- which is obtained from white wine,
- to which dried grape distillate has been added, and
- which has been flavoured exclusively by cardamom extract;

or

- to which alcohol has been added,
- which has actual alcoholic strength by volume not less than 7 % vol.,
- which has been sweetened,
- which is obtained from red wine, and
- to which flavouring preparations obtained exclusively from spices, ginseng, nuts, citrus fruit essences and aromatic herbs, have been added.

(3) *Sangría/Sangria*

Aromatised wine-based drink

- which is obtained from wine,
- which is aromatised with the addition of natural citrus-fruit extracts or essences, with or without the juice of such fruit,
- to which spices may have been added,
- to which carbon dioxide may have been added,
- which has not been coloured,
- which have an actual alcoholic strength by volume of not less than 4,5 % vol., and less than 12 % vol., and
- which may contain solid particles of citrus-fruit pulp or peel and its colour must come exclusively from the raw materials used.

'*Sangría*' or '*Sangria*' may be used as a sales denomination only when the product is produced in Spain or Portugal. When the product is produced in other Member States, '*Sangría*' or '*Sangria*' may only be used to supplement the sales denomination 'aromatised wine-based drink', provided that it is accompanied by the words: 'produced in ...', followed by the name of the Member State of production or of a more restricted region.

(4) *Clarea*

Aromatised wine-based drink, which is obtained from white wine under the same conditions as for *Sangría/Sangria*.

'*Clarea*' may be used as a sales denomination only when the product is produced in Spain. When the product is produced in other Member States, '*Clarea*' may only be used to supplement the sales denomination 'aromatised wine-based drink', provided that it is accompanied by the words: 'produced in ...', followed by the name of the Member State of production or of a more restricted region.

(5) *Zurra*

Aromatised wine-based drink obtained by adding brandy or wine spirit as defined in Regulation (EC) No 110/2008 to *Sangría/Sangria* and *Clarea*, possibly with the addition of pieces of fruit. The actual alcoholic strength by volume must be not less than 9 % vol. and less than 14 % vol.

(6) *Bitter soda*

Aromatised wine-based drink

- which is obtained from 'bitter vino' the content of which in the finished product must not be less than 50 % by volume,
- to which carbon dioxide or carbonated water has been added, and
- which has an actual alcoholic strength by volume of not less than 8 % vol., and less than 10,5 % vol..

The use of the word 'bitter' in this context shall be without prejudice to its use to define products which do not fall within the scope of this Regulation.

(7) *Kalte Ente*

Aromatised wine-based drink

- which is obtained by mixing wine, semi-sparkling wine or aerated semi-sparkling wine with sparkling wine or aerated sparkling wine,
- to which natural lemon substances or extracts thereof have been added, and
- which has an actual alcoholic strength by volume of not less than 7 % vol..

The finished product must contain not less than 25 % by volume of the sparkling wine or aerated sparkling wine.

(8) *Glühwein*

Aromatised wine-based drink

- which is obtained exclusively from red or white wine,
- which is flavoured mainly with cinnamon and/or cloves, and
- which has an actual alcoholic strength by volume of not less than 7 % vol..

Without prejudice to the quantities of water resulting from the application of Annex I, point 2, the addition of water is forbidden.

Where it has been prepared from white wine, the sales denomination 'Glühwein' must be supplemented by words indicating white wine, such as the word 'white'.

(9) *Viiniglögi/Vinglögg/Karštas vynas*

Aromatised wine-based drink

- which is obtained exclusively from red or white wine,
- which is flavoured mainly with cinnamon and/or cloves, and
- which has an actual alcoholic strength by volume of not less than 7 % vol..

Where it has been prepared from white wine, the sales denomination 'Viiniglögi/Vinglögg/Karštas vynas' must be supplemented by words indicating white wine, such as the word 'white'.

(10) *Maiwein*

Aromatised wine-based drink

- which is obtained from wine in which *Galium odoratum* (L.) Scop. (*Asperula odorata* L.), plants or extracts thereof has been added so as to ensure a predominant taste of *Galium odoratum* (L.) Scop. (*Asperula odorata* L.), and
- which has an actual alcoholic strength by volume of not less than 7 % vol..

(11) *Maitrank*

Aromatised wine-based drink

- which is obtained from white wine in which *Galium odoratum* (L.) Scop. (*Asperula odorata* L.) plants have been macerated or to which extracts thereof have been added with the addition of oranges and/or other fruits, possibly in the form of juice, concentrated or extracts, and with maximum 5 % sugar sweetening, and
- which has an actual alcoholic strength by volume of not less than 7 % vol..

(12) *Pelin*

Aromatised wine-based drink

- which is obtained from red or white wine and specific mixture of herbs,
- which has an actual alcoholic strength by volume of not less than 8,5 % vol., and
- which has a sugar content expressed as invert sugar of 45-50 grams per litre, and a total acidity of not less than 3 grams per litre expressed as tartaric acid.

(13) *Aromatizovaný dezert*

Aromatised wine-based drink

- which is obtained from white or red wine, sugar and dessert spices mixture,
- which has an actual alcoholic strength by volume of not less than 9 % vol. and less than 12 % vol., and
- which has a sugar content expressed as invert sugar of 90-130 grams per litre and a total acidity of at least 2,5 grams per litre expressed as tartaric acid.

'*Aromatizovaný dezert*' may be used as a sales denomination only when the product is produced in the Czech Republic. When the product is produced in other Member States, '*Aromatizovaný dezert*' may only be used to supplement the sales denomination 'aromatised wine-based drink' provided that it is accompanied by the words 'produced in ...' followed by the name of the Member State of production or of a more restricted region.

C. SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE-PRODUCT COCKTAILS

(1) Aromatised wine-product cocktail

Product complying with the definition set out in Article 3(4).

The use of the term 'cocktail' in this connection is without prejudice to its use to define products which do not fall within the scope of this Regulation.

(2) Wine-based cocktail

Aromatised wine-product cocktail

- in which the proportion of concentrated grape must does not exceed 10 % of the total volume of the finished product,
- which has an actual alcoholic strength by volume less than 7 % vol., and
- in which the sugar content, expressed as invert sugar, is less than 80 grams per litre.

(3) Aromatised semi-sparkling grape-based cocktail

Aromatised wine-product cocktail

- which is obtained exclusively from grape must,
- which has an actual alcoholic strength by volume less than 4 % vol., and
- which contains carbon dioxide obtained exclusively from fermentation of the products used.

(4) Sparkling wine cocktail

Aromatised wine-product cocktail, which is mixed with sparkling wine.

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 1601/91	This Regulation
Article 1	Article 1
Article 2(1) to (4)	Article 3 and Annex II
Article 2(5)	Article 6(1)
Article 2(6)	Article 6(2)
Article 2(7)	—
Article 3	Article 4(1) and Annex I
Article 4(1) to (3)	Article 4(1) and Annex I
Article 4(4)	Article 4(3)
Article 5	Article 4(2)
Article 6(1)	Article 5(1) and (2)
Article 6(2)(a)	Article 5(4)
Article 6(2)(b)	Article 20(1)
Article 6(3)	Article 5(5)
Article 6(4)	Article 9
Article 7(1) and (3)	—
Article 7(2)	Article 5(3)
Article 8(1)	—
Article 8(2)	Article 5(1) and (2)
Article 8(3)	Article 6(3)
—	Article 7
Article 8(4), first and second paragraphs	—
Article 8(4) third paragraph	Annex I, point 3, second paragraph
Article 8(4a)	—
Article 8(5) to (8)	Article 8
Article 8(9)	—
Article 9(1) to (3)	Article 31
Article 9(4)	Article 32
Article 10	Article 11
Article 10a	Article 2, point 3, and Articles 10 to 30

Regulation (EEC) No 1601/91	This Regulation
Article 11	Article 1(3)
Articles 12 to 15	Articles 33 and 34
—	Article 35
Article 16	Article 36
Article 17	Article 37
Annex I	Annex I(3)(a)
Annex II	—

**REGULATION (EU) No 252/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014**

**amending Council Regulation (EC) No 774/94, as regards the implementing and delegated powers to
be conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national
parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Council Regulation (EC) No 774/94 ⁽²⁾ confers powers
on the Commission in order to implement some of the
provisions of that Regulation.
- (2) As a consequence of the entry into force of the Treaty of
Lisbon, the powers conferred on the Commission under
Regulation (EC) No 774/94 should be aligned to Articles
290 and 291 of the Treaty on the Functioning of the
European Union (TFEU).
- (3) In order to supplement or amend certain non-essential
elements of Regulation (EC) No 774/94, the power to
adopt acts in accordance with Article 290 TFEU should
be delegated to the Commission in respect of the
adoption of amendments to that Regulation, should the
volumes and other conditions of quota arrangements be
adjusted, in particular by a Council decision to conclude
an agreement with one or more third countries. It is of
particular importance that the Commission carry out
appropriate consultations during its preparatory work,
including at expert level. The Commission, when
preparing and drawing up delegated acts, should ensure
a simultaneous, timely and appropriate transmission of
relevant documents to the European Parliament and to
the Council.
- (4) In order to ensure uniform conditions for the implemen-
tation of Regulation (EC) No 774/94 in respect of the
rules necessary for the administration of the quota

arrangements referred to in that Regulation, imple-
menting powers should be conferred on the
Commission. Those powers should be exercised in
accordance with Regulation (EU) No 182/2011 of the
European Parliament and of the Council ⁽³⁾.

- (5) Regulation (EC) No 774/94 should therefore be amended
accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 774/94 is amended as follows:

- (1) Articles 7 and 8 are replaced by the following:

‘Article 7

The Commission shall, by means of implementing acts,
adopt rules necessary for the administration of the quota
arrangements referred to in this Regulation and, as appro-
priate:

- (a) the provisions guaranteeing the nature, provenance and
origin of the product;
- (b) the provision relating to the recognition of the
document allowing the guarantees referred to in point
(a) to be verified; and
- (c) the issue of import licences and their term of validity.

Those implementing acts shall be adopted in accordance
with the examination procedure referred to in Article 8b(2).

Article 8

In order to comply with international commitments and
where the volumes and other conditions of the quota
arrangements referred to in this Regulation are adjusted
by the European Parliament and the Council or by the
Council, in particular by a Council decision concluding an
agreement with one or more third countries, the
Commission shall be empowered to adopt delegated acts
in accordance with Article 8a concerning the resulting
amendments to this Regulation.’

⁽¹⁾ Position of the European Parliament of 14 January 2014 (not yet
published in the Official Journal) and decision of the Council of
17 February 2014.

⁽²⁾ Council Regulation (EC) No 774/94 of 29 March 1994 opening and
providing for the administration of certain Community tariff quotas
for high-quality beef, and for pigmeat, poultrymeat, wheat and
meslin, and brans, sharps and other residues (OJ L 91, 8.4.1994,
p. 1).

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of
the Council of 16 February 2011 laying down the rules and general
principles concerning mechanisms for control by Member States of
the Commission's exercise of implementing powers (OJ L 55,
28.2.2011, p. 13).

(2) The following articles are inserted:

'Article 8a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 8 shall be conferred on the Commission for a period of five years from 9 April 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 8 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 8 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 8b

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council (*). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (**).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or at least a quarter of committee members so request.

(*) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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 Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

Commission Statement on codification

The adoption of this Regulation will entail a substantial number of amendments to the acts in question. In order to improve the legibility of the acts concerned, the Commission will propose a codification of the acts as expeditiously as possible once the Regulation is adopted, and at the latest by 30 September 2014.

Commission Statement on delegated acts

In the context of this Regulation, the Commission recalls the commitment it has taken in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.

REGULATION (EU) No 253/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

**amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to
reduce CO₂ emissions from new light commercial vehicles**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national
parliaments,

Having regard to the opinion of the European Economic and
Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Pursuant to Article 13(1) of Regulation (EU) No 510/2011 of the European Parliament and of the Council ⁽³⁾ the Commission is, subject to confirmation of its feasibility, to review the modalities of achieving the 147 g CO₂/km target by 2020, including the formulae set out in Annex I to that Regulation and the derogations provided for in Article 11 thereof. It is appropriate that this Regulation be as neutral as possible from the point of view of competition, socially equitable and sustainable.

(2) In view of the link between CO₂ emissions and fuel consumption, defining modalities for reducing CO₂ emissions from light commercial vehicles could also contribute to reducing fuel consumption and related costs for owners of such vehicles in a cost-effective manner.

(3) It is appropriate to clarify that, for the purpose of verifying compliance with the target of 147 g CO₂/km, CO₂ emissions should continue to be measured in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council ⁽⁴⁾ and its implementing measures, and innovative technologies.

(4) According to the technical analysis carried out for the impact assessment, the technologies needed to meet the target of 147 g CO₂/km are available and the required reductions can be achieved at a lower cost than estimated in the previous technical analysis carried out prior to the adoption of Regulation (EU) No 510/2011. In addition, the distance between the current average specific emissions of CO₂ from new light commercial vehicles and the target of 147 g CO₂/km has also decreased. Therefore, the feasibility of reaching that target by 2020 has been confirmed.

(5) In recognition of the disproportionate impact on the smallest manufacturers resulting from compliance with the specific emissions targets defined on the basis of the utility of the vehicle, the high administrative burden of the derogation procedure, and the marginal resulting benefit in terms of CO₂ emissions reduction from the vehicles sold by those manufacturers, manufacturers responsible for fewer than 1 000 new light commercial vehicles registered in the Union annually should be excluded from the scope of the specific emissions target and the excess emissions premium.

(6) The procedure for granting a derogation to small-volume manufacturers should be simplified to allow for more flexibility in terms of when an application for a derogation is to be submitted by such manufacturers and when the Commission is to grant such a derogation.

(7) To enable the automotive industry to engage in long-term investment and innovation, it is desirable to provide indications as to how Regulation (EU) No 510/2011 should be amended for the period beyond 2020. Those indications should be based on an assessment of the necessary rate of reduction in line with the Union's long-term climate goals and the implications for the development of cost effective CO₂-reducing technology for light commercial vehicles. The Commission should, by 2015, review such aspects and submit a report to the European Parliament and to the Council on its findings. That report should include,

⁽¹⁾ OJ C 44, 15.2.2013, p. 109.

⁽²⁾ Position of the European Parliament of 14 January 2014 (not yet published in the Official Journal) and decision of the Council of 11 February 2014.

⁽³⁾ Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 145, 31.5.2011, p. 1).

⁽⁴⁾ Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p. 1).

where appropriate, proposals for amending Regulation (EU) No 510/2011 in relation to establishing CO₂ emission targets for new light commercial vehicles beyond 2020, including the possible setting of a realistic and achievable target for 2025, based on a comprehensive impact assessment that would consider the continued competitiveness of the industry and its dependent industries, while pursuing a clear emissions reduction trajectory in line with the Union's long-term climate goals. When developing such proposals, the Commission should ensure they are as neutral as possible from the point of view of competition and are socially equitable and sustainable.

however appropriate to update that approach to reflect the latest available data on registrations of new light commercial vehicles.

(8) Greenhouse gas emissions related to energy supply and vehicle manufacturing and disposal are significant components of the current overall road transport carbon footprint and are likely to significantly increase in importance in the future. Policy action should therefore be taken to guide manufacturers towards optimal solutions taking account of, in particular, greenhouse gas emissions associated with the generation of energy supplied to vehicles such as electricity and alternative fuels and to ensure that those upstream emissions do not erode the benefits related to the improved operational energy use of vehicles aimed for under Regulation (EU) No 510/2011.

(9) Pursuant to Article 13(3) of Regulation (EU) No 510/2011, the Commission is required to publish a report on the availability of data on footprint and payload and their use as utility parameters for determining specific CO₂ emissions targets as expressed by the formulae set out in Annex I to Regulation (EU) No 510/2011. Although those data are available and their potential use has been assessed in the impact assessment, it has been concluded that it is more cost-effective to retain mass in running order as the utility parameter for the 2020 target for light commercial vehicles.

(10) It is appropriate to retain the approach of setting the target based on a linear relationship between the utility of the light commercial vehicle and its target CO₂ emissions as expressed by the formulae set out in Annex I to Regulation (EU) No 510/2011, since this allows the diversity of the light commercial vehicle market, and the ability of manufacturers to address different consumer needs, to be maintained, thus avoiding any unjustified distortion of competition. It is

(11) In its impact assessment, the Commission assessed the availability of footprint data and the use of footprint as the utility parameter in the formulae set out in Annex I to Regulation (EU) No 510/2011. On the basis of that assessment, the Commission has concluded that the utility parameter used in the formula for 2020 should be mass.

(12) Under Regulation (EC) No 443/2009 of the European Parliament and of the Council⁽¹⁾ the Commission is required to carry out an impact assessment in order to review the test procedures with a view to reflecting adequately the real CO₂ emissions behaviour of cars. Regulation (EU) No 510/2011 extends the review of the test procedures to include light commercial vehicles. There is a need to amend the currently used 'New European Driving Cycle' (NEDC), to ensure its representativeness regarding real driving conditions and to avoid the underestimation of real CO₂ emissions and fuel consumption. A new, more realistic and reliable test procedure should be agreed as soon as feasible. Work in this direction is proceeding through the development of a Worldwide harmonized Light vehicles Test Procedure (WLTP) in the framework of the United Nations Economic Commission for Europe but has not yet been completed. In order to ensure that specific CO₂ emissions quoted for new passenger cars and new light commercial vehicles are brought more closely into line with the emissions actually generated during normal conditions of use, the WLTP should be applied at the earliest opportunity. In view of that context, Annex I to Regulation (EU) No 510/2011 establishes emission limits for 2020 as measured in accordance with Regulation (EC) No 715/2007 and Annex XII to Commission Regulation (EC) No 692/2008⁽²⁾. When the test procedures are amended, the limits set in Annex I to Regulation (EU) No 510/2011 should be adjusted to ensure comparable stringency for manufacturers and classes of vehicles. Accordingly, the Commission should carry out a robust correlation study between the NEDC and the new WLTP test cycles to ensure its representativeness regarding real driving conditions.

⁽¹⁾ Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1).

⁽²⁾ Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199, 28.7.2008, p. 1).

- (13) With a view to ensuring that real world emissions are adequately reflected, and measured CO₂ values are strictly comparable, the Commission should ensure that those elements in the testing procedure that have a significant influence on measured CO₂ emissions are strictly defined in order to prevent the utilisation of test cycle flexibilities by manufacturers. The deviations between type-approval CO₂ emission values and emissions derived from vehicles offered for sale should be addressed, including by considering an in-service conformity test procedure that should ensure independent testing of a representative sample of vehicles for sale, as well as ways of addressing cases of demonstrated substantial divergence between survey and initial type-approval CO₂ emissions.
- (14) Since the objective of this Regulation, namely to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new light commercial vehicles, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (15) Regulation (EU) No 510/2011 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 510/2011 is amended as follows:

- (1) in Article 1, paragraph 2 is replaced by the following:

‘2. From 2020, this Regulation sets a target of 147 g CO₂/km for the average emissions of new light commercial vehicles registered in the Union, as measured in accordance with Regulation (EC) No 715/2007 and its implementing measures, and innovative technologies.’;

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

‘4. Article 4, Article 8(4)(b) and (c), Article 9 and Article 10(1)(a) and (c) shall not apply to a manufacturer which, together with all of its connected undertakings, is responsible for fewer than 1 000 new light commercial vehicles registered in the Union in the previous calendar year.’;

- (3) in Article 11(3), the last sentence is deleted;

- (4) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Upon application by a supplier or a manufacturer, CO₂ savings achieved through the use of innovative technologies or a combination of innovative technologies (“innovative technology packages”) shall be considered.

The total contribution of those technologies to reducing the specific emissions target of a manufacturer may be up to 7 g CO₂/km.’;

- (b) in paragraph 2, the introductory part is replaced by the following:

‘2. The Commission shall adopt by means of implementing acts detailed provisions for a procedure to approve the innovative technologies or innovative technology packages referred to in paragraph 1, by 31 December 2012. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2) of this Regulation. Those detailed provisions shall be in accordance with the provisions established under Article 12(2) of Regulation (EC) No 443/2009, and be based on the following criteria for innovative technologies’;

- (5) Article 13 is amended as follows:

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

‘1. By 31 December 2015, the Commission shall review the specific emissions targets and the modalities set out herein, as well as the other aspects of this Regulation in order to establish the CO₂ emissions targets for new light commercial vehicles for the period beyond 2020. In that regard, the assessment of the necessary rate of reduction shall be in line with the Union’s long-term climate goals and the implications for the development of cost effective CO₂-reducing technology for light commercial vehicles. The Commission shall submit a report to the European Parliament and to the Council with the result of that review. That report shall include any appropriate proposals for amending this Regulation, including the possible setting of a realistic and achievable target, based on a comprehensive impact assessment that will consider the continued competitiveness of the light commercial vehicle industry and its dependent industries. When developing such proposals, the Commission shall ensure they are as neutral as possible from the point of view of competition and are socially equitable and sustainable.’;

- (b) paragraph 6 is amended as follows:

(i) the second subparagraph is deleted;

(ii) the fourth subparagraph is replaced by the following two subparagraphs:

The Commission shall, by means of implementing acts, determine the correlation parameters necessary in order to reflect any change in the regulatory test procedure for the measurement of specific CO₂ emissions referred to in Regulation (EC) No 715/2007 and Commission Regulation (EC) No 692/2008 (*). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2) of this Regulation.

The Commission shall be empowered to adopt delegated acts in accordance with Article 15 and subject to the conditions laid down in Articles 16 and 17 in order to adapt the formulae set out in Annex I, using the methodology adopted pursuant to the first subparagraph, while ensuring that reduction requirements of comparable stringency for manufacturers and vehicles of different utility are required under the old and new test procedures.

(*) Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199, 28.7.2008, p. 1).;

(6) in Article 14, the following paragraph is added:

‘2a. Where the Committee referred to in paragraph 1 delivers no opinion, the Commission shall not adopt the

draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.’;

(7) in point 1 of Annex I, the following point is added:

‘(c) from 2020:

Indicative specific emissions of
 $\text{CO}_2 = 147 + a \cdot (M - M_0)$

where:

M = mass of the vehicle in kilograms (kg)

M₀ = the value adopted pursuant to Article 13(5)

a = 0,096.’.

Article 2

This Regulation shall enter into force on the third 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 Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

REGULATION (EU) No 254/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014
on a multiannual consumer programme for the years 2014-20 and repealing Decision No
1926/2006/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 169 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The Commission Communication of 3 March 2010 entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth' ('Europe 2020') calls for citizens to be empowered to play a full part in the internal market, which requires the strengthening of their ability and confidence to buy goods and services cross-border, in particular online.

(2) The Union contributes to ensuring a high level of consumer protection and to placing consumers at the heart of the internal market by supporting and complementing Member States' policies in seeking to ensure that citizens can fully reap the benefits of the internal market and that, in so doing, their safety and legal and economic interests are properly protected by means of concrete actions.

(3) The multiannual Consumer Programme for the years 2014-20 ('the Programme') should help ensure a high level of protection for consumers and fully support the ambitions of Europe 2020 as regards growth and competitiveness by integrating specific concerns identified in Europe 2020 on the digital agenda for Europe in order to ensure that digitalisation actually leads to increased consumer welfare, on sustainable growth by moving towards more sustainable patterns of consumption, on social inclusion by taking into account the specific situation of vulnerable consumers and the needs of an ageing population, and on smart regulation, inter alia, through consumer market monitoring to help design smart and targeted regulations.

(4) The Commission Communication of 22 May 2012 entitled 'A European Consumer Agenda — Boosting confidence and growth' (the 'Consumer Agenda') sets out a strategic framework for Union consumer policy in the years to come by supporting consumer interests in all Union policies. The aim of the Consumer Agenda is to create a strategy in which political action will efficiently and effectively support consumers throughout their lives by ensuring the safety of the products and services made available to them, by informing and educating them, by supporting bodies that represent them, by strengthening their rights, by giving them access to justice and redress and by ensuring that consumer legislation is enforced.

(5) The recent economic downturn has exposed a number of shortcomings and inconsistencies in the internal market, which have had adverse implications for consumers' and citizens' confidence. Whilst it is necessary to acknowledge the budgetary constraints under which the Union is currently operating, the Union should nevertheless provide adequate financial means to enable the targets of the Programme to be reached and should therefore support Europe 2020.

(6) The elimination of remaining unjustified and disproportionate barriers to the proper functioning of the internal market and improving citizens' trust and confidence in the system, in particular when buying cross-border, are essential for the completion of the internal market. The Union should aim to create the right conditions to empower consumers by providing them with sufficient tools, knowledge and competence to make considered and informed decisions and by raising consumer awareness.

⁽¹⁾ OJ C 181, 21.6.2012, p. 89.

⁽²⁾ OJ C 225, 27.7.2012, p. 217.

⁽³⁾ Position of the European Parliament of 14 January 2014 (not yet published in the Official Journal) and Decision of the Council of 11 February 2014.

- (7) This Regulation takes into account the economic, social and technical environment and the concomitant emerging challenges. In particular, actions funded under the Programme will seek to address issues linked to globalisation, digitalisation, the growing level of complexity of decisions that consumers have to make, the need to move towards more sustainable patterns of consumption, population ageing, social exclusion and the issue of vulnerable consumers. Integrating consumer interests into all Union policies, in accordance with Article 12 of the Treaty on the Functioning of the European Union (TFEU), is a high priority. Coordination with other Union policies and programmes is a key part of ensuring that consumer interests are taken fully into account in other policies. In order to promote synergies and avoid duplication, other Union funds and programmes should provide for financial support for the integration of consumer interests in their respective fields.
- (8) The Programme should ensure a high level of protection for all consumers, devoting particular attention to vulnerable consumers, in order to take into account their specific needs and strengthen their capabilities, as called for in the Resolution of the European Parliament of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers⁽¹⁾. In particular, the Programme should ensure that vulnerable consumers have access to information on goods and services, in order to have equal opportunities to make free and informed choices, especially since vulnerable consumers may have difficulties in accessing and comprehending consumer information, and therefore risk being misled.
- (9) The Programme should in particular take into account children, including by working with stakeholders to ensure their commitment to responsible advertising towards minors, in particular to combating misleading online advertising.
- (10) Actions should be laid down in the Programme, providing a Union framework for their funding. In accordance with Article 54 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽²⁾, this Regulation is to provide the legal basis for those actions and for the implementation of the Programme. This Regulation builds on and continues the actions funded under Decision No 1926/2006/EC of the European Parliament and of the Council⁽³⁾.
- (11) It is important to improve consumer protection. To achieve that general objective, specific objectives should be set as regards safety, consumer information and education and support for consumer organisations at Union level, rights and redress as well as enforcement in respect of consumer rights. The value and impact of the measures taken under the Programme should regularly be monitored and evaluated to facilitate smarter policy design in the interest of consumers. In order to evaluate consumer policy and particularly the precise impact of the measures taken, indicators should be developed, the value of which should however be considered in a wider context.
- (12) It is important to enhance consumer confidence. In order to achieve that objective, it is necessary to strengthen the scope for action, particularly through appropriate financial support to Union-level consumer organisations and European consumer centres, taking into account their major role in providing information and assistance to consumers about their rights, supporting consumers in consumer disputes, in particular with regard to access to appropriate dispute resolution mechanisms, and promoting consumer interests in the proper functioning of the internal market. Those organisations and centres should have the capacity to enhance consumer protection and confidence by taking action on the ground and tailoring aid, information and education to the individual.
- (13) It is necessary to provide for the eligible actions by which those objectives are to be achieved.
- (14) It is necessary to define the categories of potential beneficiaries eligible for grants.
- (15) A financial reference amount for the Programme, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽⁴⁾, is included in this Regulation, without the budgetary powers of the European Parliament and the Council, as set out in the TFEU, being thereby affected.
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- ⁽¹⁾ OJ C 264 E, 13.9.2013, p. 11.
- ⁽²⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the European Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).
- ⁽³⁾ Decision No 1926/2006/EC of the European Parliament and of the Council of 18 December 2006 establishing a programme of Community action in the field of consumer policy (2007-13) (OJ L 404, 30.12.2006, p. 39).
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- ⁽⁴⁾ OJ C 373, 20.12.2013, p. 1.

- (16) In the spirit of the principles of sound financial management, transparency and flexibility in the implementation of the Programme, the continuation of the executive agency should be permissible if all the requirements set by Council Regulation (EC) No 58/2003 ⁽¹⁾ are met.
- (17) Expenditure of Union and Member States' funds in the area of consumer safety, education, rights and enforcement should be better coordinated in order to ensure complementarity, better efficiency and visibility, as well as to achieve better budgetary synergies.
- (18) The Agreement on the European Economic Area provides for cooperation in the field of consumer protection between the Union and its Member States, on the one hand, and the countries of the European Free Trade Association participating in the European Economic Area, on the other. Provision should also be made to open the Programme to participation by other countries, in particular the neighbouring countries of the Union and countries which are applying for, are candidates for or are acceding to, membership of the Union.
- (19) In the context of the implementation of the Programme, and given the globalisation of the production chain and the increasing interdependence of markets, cooperation with third countries not participating in the Programme should be encouraged, taking into account any relevant agreements between those countries and the Union.
- (20) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adaptation of the indicators set out in Annex II in order to take into account changes in the legislative framework in the area of consumer protection, and in respect of amending Annex I by removing specific actions concerned in order to take into account the results of an evaluation report by the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (21) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the adoption of annual work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²⁾. Given that the Programme does not set out criteria for the safety of products but aims at providing financial support to tools for the implementation of product safety policy, and given the relatively small amount concerned, it is appropriate that the advisory procedure apply.
- (22) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (23) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States due to the cross-border nature of the issues involved, but can rather, by reason of the greater potential of Union action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (24) Decision No 1926/2006/EC should be repealed.
- (25) It is appropriate to ensure a smooth transition without interruption between the programme of Community action in the field of consumer policy (2007-13), established by Decision No 1926/2006/EC, and this Programme, in particular regarding the continuation of multiannual measures and the evaluation of the previous programme's successes and areas that need more attention. Furthermore, it is appropriate to align the duration of this Programme with that of the multiannual financial framework for the years 2014-20 laid down in Council Regulation (EU, Euratom) No 1311/2013 ⁽³⁾. Therefore, this Programme should apply as from 1 January 2014. As of 1 January 2021, the technical and administrative assistance appropriations should cover, if necessary, the expenditure related to the management of actions not completed by the end of 2020,

HAVE ADOPTED THIS REGULATION:

Article 1

Multiannual consumer programme

This Regulation establishes a multiannual consumer programme for the period from 1 January 2014 to 31 December 2020 (the 'Programme').

⁽¹⁾ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽³⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-20 (OJ L 347, 20.12.2013, p. 884).

*Article 2***General objective**

The general objective of the Programme is to ensure a high level of consumer protection, to empower consumers and to place the consumer at the heart of the internal market, within the framework of an overall strategy for smart, sustainable and inclusive growth. The Programme will do so by contributing to protecting the health, safety and the legal and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests, and supporting the integration of consumer interests into other policy areas. The Programme shall complement, support and monitor the policies of Member States.

*Article 3***Specific objectives and indicators**

1. The general objective referred to in Article 2 shall be pursued through the following specific objectives:

- (a) Objective I — Safety: to consolidate and enhance product safety through effective market surveillance throughout the Union.

This objective will be measured in particular through the activity and effectiveness of the EU rapid alert system for dangerous consumer products (RAPEX).

- (b) Objective II — Consumer information and education, and support to consumer organisations: to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations, including taking into account the specific needs of vulnerable consumers.

- (c) Objective III — Rights and redress: to develop and reinforce consumer rights in particular through smart regulatory action and improving access to simple, efficient, expedient and low-cost redress including alternative dispute resolution.

This objective will be measured in particular through the recourse to alternative dispute resolution to solve cross-border disputes and through the activity of a Union-wide online dispute resolution system, and by the percentage of consumers taking action in response to a problem encountered.

- (d) Objective IV — Enforcement: to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice.

This objective will be measured in particular through the level of information flow and the effectiveness of the cooperation within the Consumer Protection Cooperation Network, the activity of the European Consumer Centres and how well known they are to consumers.

High-quality consumer information and participation is a cross-sectoral priority and, therefore, shall be expressly provided for, whenever possible, in all sectoral objectives and actions financed under the Programme.

2. The description of the indicators is set out in Annex II.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 15 to adapt the indicators set out in Annex II.

*Article 4***Eligible actions**

The specific objectives referred to in Article 3 shall be achieved by means of the eligible actions set out in the following list:

- (a) under objective I — Safety:
- (1) scientific advice and risk analysis relevant to consumer health and safety regarding non-food products and services including support for the tasks of the independent scientific committees established by Commission Decision 2008/721/EC ⁽¹⁾;
 - (2) coordination of market surveillance and enforcement actions on product safety with regard to Directive 2001/95/EC of the European Parliament and of the Council ⁽²⁾, and actions to improve consumer services safety;
 - (3) maintenance and further development of databases on cosmetics;
- (b) under objective II — Consumer information and education, and support to consumer organisations:

⁽¹⁾ Commission Decision No 2008/721/EC of 5 August 2008 setting up an advisory structure of Scientific Committees and experts in the field of consumer safety, public health and the environment and repealing Decision 2004/210/EC (OJ L 241, 10.9.2008, p. 21).

⁽²⁾ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

- (4) building and improving access to the evidence base for policy-making in areas affecting consumers, for designing smart and targeted regulations and for detecting any market malfunctioning or changes in consumers' needs, providing a basis for the development of consumer policy, for the identification of the areas most problematic for consumers and for the integration of consumer interests into other Union policies;
 - (5) support through financing of Union-level consumer organisations and through capacity building for consumer organisations at Union, national and regional level, increasing transparency and stepping up exchanges of best practices and expertise;
 - (6) enhancing the transparency of consumer markets and consumer information, ensuring consumers have comparable, reliable and easily accessible data, including for cross-border cases, to help them compare not only prices, but also quality and sustainability of goods and services;
 - (7) enhancing consumer education as a life-long process, with a particular focus on vulnerable consumers;
- (c) under objective III — Rights and redress:
- (8) preparation by the Commission of consumer protection legislation and other regulatory initiatives, monitoring the transposition by Member States and the subsequent evaluation of its impact, and the promotion of co-regulatory and self-regulatory initiatives and monitoring the real impact of those initiatives on consumer markets;
 - (9) facilitating access to dispute resolution mechanisms for consumers, in particular to alternative dispute resolution schemes, including through a Union-wide online system and the networking of national alternative dispute resolution entities, paying specific attention to adequate measures for vulnerable consumers' needs and rights; monitoring of the functioning and the effectiveness of dispute resolution mechanisms for consumers, including through the development and maintenance of relevant IT tools, and the exchange of current best practices and experience in the Member States;
- (d) under objective IV — Enforcement:
- (10) coordination of surveillance and enforcement actions with regard to Regulation (EC) No 2006/2004 of the European Parliament and of the Council ⁽¹⁾;
 - (11) financial contributions for joint actions with public or non-profit bodies constituting Union networks which provide information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution, including out of court online resolution schemes (the European Consumer Centres Network).
- Where applicable, the eligible actions set out in the first paragraph of this Article are further specified in Annex I by listing under them specific actions.
- Article 5*
- Beneficiaries eligible for grants**
1. Grants for the functioning of consumer organisations at Union level may be awarded to European consumer organisations which comply with all of the following conditions:
- (a) they are non-governmental, non-profit-making, independent of industry, commercial and business or other conflicting interests, and have as their primary objectives and activities the promotion and protection of the health, safety, economic and legal interests of consumers in the Union;
 - (b) they are mandated to represent the interests of consumers at Union level by organisations in at least half of the Member States that are representative, in accordance with national rules or practice, of consumers, and that are active at regional or national level.
2. Grants for the functioning of international bodies promoting principles and policies which contribute to the objectives of the Programme may be awarded to organisations which comply with all of the following conditions:
- (a) they are non-governmental, non-profit-making, independent of industry, commercial and business or other conflicting interests, and have as their primary objectives and activities the promotion and protection of the health, safety, economic and legal interests of consumers;
- ⁽¹⁾ Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protections laws (OJ L 364, 9.12.2004, p. 1).

(b) they carry out all of the following activities: provide for a formal mechanism for consumer representatives from the Union and third countries to contribute to political discussions and policies, organise meetings with policy officials and regulators to promote and advocate consumer interests with public authorities, identify common consumer issues and challenges, promote consumer views in the context of bilateral relations between the Union and third countries, contribute to the exchange and dissemination of expertise and knowledge on consumer issues in the Union and third countries, and produce policy recommendations.

3. Grants for the functioning of Union-level bodies established for the coordination of enforcement actions in the field of product safety may be awarded to bodies recognised for this purpose by Union legislation.

4. Grants for action to Union-wide bodies for the development of codes of conduct, best practices and guidelines for price, product quality and sustainability comparison may be awarded to bodies which comply with all of the following conditions:

(a) they are non-governmental, non-profit-making, independent of industry, commercial and business or other conflicting interests, and have amongst their primary objectives and activities the promotion and protection of consumer interests;

(b) they are active in at least half of the Member States.

5. Grants for the organisation of Presidency events concerning consumer policy of the Union may be awarded to national authorities of the Member State holding the Presidency of Council configurations, other than that of Foreign Affairs or to bodies designated by that Member State.

6. Grants for action to Member States' authorities responsible for consumer affairs and to corresponding authorities of third countries may be awarded to authorities notified to the Commission in accordance with Regulation (EC) No 2006/2004 or Directive 2001/95/EC by a Member State or by a third country referred to in Article 7 of this Regulation, or to non-profit-making bodies expressly designated by those authorities for that purpose.

7. Grants to enforcement officials from Member States and third countries may be awarded to officials from authorities notified to the Commission for the purposes of Regulation (EC) No 2006/2004 and of Directive 2001/95/EC by a Member State or by a third country referred to in Article 7 of this Regulation.

8. Grants for action may be awarded to a body designated by a Member State or a third country referred to in Article 7 which is a non-profit-making body selected through a transparent procedure or a public body. The designated body shall be part of a Union network which provides information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution (European Consumer Centres Network). A framework partnership may be established as a long-term cooperation mechanism between the Commission and the European Consumer Centres Network and/or its constitutive bodies.

9. Grants for action may be awarded to complaint handling bodies established and operating in the Member States of the Union and in countries of the European Free Trade Association participating in the European Economic Area, which are responsible for collecting consumer complaints, or attempting to resolve complaints, or giving advice, or providing information to consumers about complaints or enquiries, and which are a third party to a complaint or enquiry by a consumer about a trader. They shall not include consumer complaint handling mechanisms operated by traders and dealing with enquiries and complaints directly with the consumer or mechanisms providing complaint handling services operated by or on behalf of a trader.

Article 6

Financial Framework

1. The financial envelope for the implementation of the Programme for the period from 1 January 2014 to 31 December 2020 shall be EUR 188 829 000 in current prices.

2. Annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

Article 7

Participation of third countries in the Programme

Participation in the Programme shall be open to:

(a) the countries of the European Free Trade Association participating in the European Economic Area, in accordance with the conditions established in the Agreement on the European Economic Area;

(b) third countries, in particular acceding and candidate countries as well as potential candidates, and countries to which the European Neighbourhood Policy applies, in accordance with the general principles and general terms and conditions for their participation in Union programmes established in the respective Framework Agreements, Association Council Decisions or similar agreements.

*Article 8***Types of intervention and maximum level of co-financing**

1. In accordance with Regulation (EU, Euratom) No 966/2012, financial contributions by the Union may take the form of either grants or public procurement or any other interventions needed to achieve the objectives referred to in Articles 2 and 3 of this Regulation.

2. The grants by the Union and their corresponding maximum levels shall be as follows:

- (a) grants for the functioning of consumer organisations at Union level, as defined in Article 5(1), not exceeding 50 % of the eligible costs;
- (b) grants for the functioning of international bodies promoting principles and policies which contribute to the objectives of the Programme, as defined in Article 5(2), not exceeding 50 % of the eligible costs;
- (c) grants for the functioning of Union-level bodies established for the coordination of enforcement actions in the field of product safety and recognised for this purpose by Union legislation, as defined in Article 5(3), not exceeding 95 % of the eligible costs;
- (d) grants for action to Union-wide bodies for the development of codes of conduct, best practices, guidelines for price, product quality and sustainability comparison, as defined in Article 5(4), not exceeding 50 % of the eligible costs;
- (e) grants for the organisation of Presidency events concerning consumer policy of the Union to national authorities of the Member State holding the Presidency of Council configurations, other than that of Foreign Affairs or to bodies designated by that Member State, not exceeding 50 % of the eligible costs;
- (f) grants for action to Member States' authorities responsible for consumer affairs and to the corresponding authorities in third countries participating pursuant to Article 7, as defined in Article 5(6), not exceeding 50 % of the eligible costs, except in the case of actions of exceptional utility, in which case the contribution by the Union to the eligible costs shall not exceed 70 %;

(g) grants for the exchange of enforcement officials from Member States and third countries participating pursuant to Article 7, as defined in Article 5(7), covering travelling and subsistence allowances;

(h) grants for action to bodies designated by a Member State or a third country referred to in Article 7, as defined in Article 5(8), not exceeding 70 % of the eligible costs;

(i) grants for action to national consumer complaint bodies, as defined in Article 5(9), not exceeding 50 % of the eligible costs.

3. Actions shall be considered as of exceptional utility within the meaning of point (f) of paragraph 2 where:

- (a) as regards grants awarded to the authorities and notified to the Commission for the purposes of Regulation (EC) No 2006/2004, they involve at least six Member States or they concern infringements which cause or are likely to cause harm in two or more Member States;
- (b) as regards grants awarded to the authorities responsible for consumer product safety, they involve at least 10 Member States taking part in the European network of Member States' competent authorities for product safety referred to in Article 10 of Directive 2001/95/EC or they contribute to the implementation of market surveillance activities in the field of consumer product safety that have been provided for in a Union legal act.

*Article 9***Administrative and technical assistance**

1. The financial allocation for the Programme may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the Programme and the achievement of its objectives, inter alia, corporate communication of the political priorities of the Union in so far as they are related to the general objective of this Regulation, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the Programme.

2. The total amount allocated to cover the expenses pertaining to preparatory, monitoring, control, audit and evaluation activities and for technical and administrative assistance referred to in paragraph 1 shall not exceed 12 % of the financial envelope allocated to the Programme.

*Article 10***Methods of implementation**

The Commission shall implement the Programme by means of the management modes referred to in Article 58 of Regulation (EU, Euratom) No 966/2012.

*Article 11***Consistency and complementarity with other policies**

The Commission shall, in cooperation with the Member States, ensure overall consistency and complementarity between the Programme and other relevant Union policies, instruments and actions, in particular under the 2014-20 Multiannual 'Rights, Equality and Citizenship' programme⁽¹⁾.

*Article 12***Annual work programmes**

The Commission shall implement the Programme by means of annual work programmes. The annual work programmes shall implement the objectives set out in Articles 2 and 3, and the actions set out in Article 4 and further specified in Annex I, in a consistent manner.

The Commission shall adopt annual work programmes in the form of implementing acts in accordance with the advisory procedure referred to in Article 16(2) of this Regulation. Those implementing acts shall set out the elements provided for in Regulation (EU, Euratom) No 966/2012 and in particular:

- (a) the implementation of the actions, in accordance with Article 4 of and Annex I to this Regulation, and the indicative allocation of financial resources;
- (b) the time schedule of the planned calls for tenders and calls for proposals.

*Article 13***Evaluation and dissemination**

1. At the request of the Commission, Member States shall submit to it information on the implementation and impact of the Programme.

2. The Commission shall:

- (a) by 30 September 2017:
 - (i) review the achievement of the objectives of all the measures (at the level of results and impacts), the state of play regarding the implementation of the eligible actions set out in Article 4 and the specific

actions referred to in Annex I, the allocation of funds to the beneficiaries in accordance with the conditions set in Article 5, the efficiency of the use of resources and its European added value, taking into consideration developments in the area of consumer protection, with a view to a decision on the renewal, modification or suspension of the measures;

- (ii) submit the evaluation report on the review undertaken to the European Parliament and the Council;

- (b) by 31 December 2017, if appropriate, submit a legislative proposal or, subject to paragraph 3, adopt a delegated act.

The evaluation report shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account evaluation results on the long-term impact of the predecessor programme.

The longer-term impacts and the sustainability of effects of the Programme shall be evaluated with a view to feeding into a decision on a possible renewal, modification or suspension of a subsequent programme.

3. For the purposes of taking into account the situation whereby the evaluation report under paragraph 2 concludes that the specific actions set out in Annex I have not been implemented by 31 December 2016 and cannot be implemented by the end of the Programme, including when those specific actions are no longer relevant for the achievement of the objectives set out in Articles 2 and 3, the Commission shall be empowered to adopt delegated acts in accordance with Article 15 to amend Annex I by removing the specific actions concerned.

4. The Commission shall make the results of actions undertaken pursuant to this Regulation publicly available.

*Article 14***Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

⁽¹⁾ Regulation (EU) No 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship programme for the period 2014 to 2020 (OJ L 354, 28.12.2013, p. 62).

2. The Commission or its representatives and the European Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections in accordance with the procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 15

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3(3) and 13(3) shall be conferred on the Commission for the duration of the Programme.

3. The delegation of power referred to in Articles 3(3) and 13(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

⁽¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽²⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 3(3) and 13(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 16

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 17

Transitional measures

1. Article 6 of Decision No 1926/2006/EC shall continue to apply to actions covered by that Decision which have not been completed by 31 December 2013. Therefore, financial allocation for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the measures adopted under Decision No 1926/2006/EC and the Programme.

2. If necessary, appropriations may be entered in the budget beyond 31 December 2020 to cover expenses provided for in Article 9, to enable the management of actions not completed by 31 December 2020.

Article 18

Repeal

Decision No 1926/2006/EC is repealed with effect from 1 January 2014.

Article 19

Entry into force and date of application

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I

TYPES OF ACTIONS

Objective I**Safety: to consolidate and enhance product safety through effective market surveillance throughout the Union**

1. Scientific advice and risk analysis relevant to consumer health and safety regarding non-food products and services including support for the tasks of the independent scientific committees established by Decision 2008/721/EC.
2. Coordination of market surveillance and enforcement actions on product safety with regard to Directive 2001/95/EC, and actions to improve consumer services safety:
 - (a) development, modernisation and maintenance of IT tools (such as databases, information and communication systems) in particular so that the efficiency of existing systems can be improved by increasing the potential for data export, statistical sorting and extraction, and facilitating the electronic exchange and use of data between Member States;
 - (b) organisation of seminars, conferences, workshops and meetings of stakeholders and experts on risks and enforcement in the area of product safety;
 - (c) exchanges of enforcement officials and training focusing on integrating a risk-based approach;
 - (d) specific joint cooperation actions in the area of the safety of non-food consumer products and services, under Directive 2001/95/EC;
 - (e) monitoring and assessment of the safety of non-food products and services, including the knowledge base for further standards or the establishment of other safety benchmarks, and clarification of the traceability requirements;
 - (f) administrative, enforcement and product traceability cooperation, and development of preventive actions, with third countries other than the ones falling under Article 7 of this Regulation, including with those third countries which are the source of the majority of products notified in the Union for non-conformity with Union legislation;
 - (g) support to bodies recognised by Union legislation for the coordination of enforcement actions between Member States.
3. Maintenance and further development of databases on cosmetics:
 - (a) maintenance of the Cosmetic Products notification Portal set up under Regulation (EC) No 1223/2009 of the European Parliament and of the Council ⁽¹⁾;
 - (b) maintenance of the database on cosmetics ingredients to support the implementation of Regulation (EC) No 1223/2009.

Objective II**Consumer information and education, and support to consumer organisations: to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations, including taking into account the specific needs of vulnerable consumers**

4. Building and improving access to the evidence base for policy-making in areas affecting consumers, for designing smart and targeted regulations and for detecting any market malfunctioning or changes in consumers' needs, providing a basis for the development of consumer policy, for the identification of the areas most problematic for consumers and for the integration of consumer interests into other Union policies, including:
 - (a) Union-wide studies and analysis on consumers and consumer markets in order to design smart and targeted regulations, to detect any market malfunctioning or changes in consumers' needs;
 - (b) development and maintenance of databases, in particular to make the data collected available to stakeholders such as consumer organisations, national authorities and researchers;

⁽¹⁾ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

- (c) development and analysis of national statistical and other relevant evidence. Collection, in particular, of national data and indicators on prices, complaints, enforcement, redress will be developed in collaboration with national stakeholders.
5. Support through financing of Union-level consumer organisations and through capacity building for consumer organisations at Union, national and regional level, increasing transparency and stepping up exchanges of best practices and expertise:
- (a) financial contributions to the functioning of Union-level consumer organisations representing consumer interests in accordance with Article 5(1) of this Regulation;
- (b) capacity building for regional, national and European consumer organisations, notably through training available in various languages and throughout the Union and exchange of best practices and expertise for staff members, in particular for consumer organisations in Member States where they are not sufficiently developed or which demonstrate a relatively low level of consumer confidence and awareness as evidenced by monitoring of consumer markets and the consumer environment in the Member States;
- (c) greater transparency and more exchanges of good practice and expertise, in particular through enhanced networking, assisted by the setting up of an online portal for consumer organisations to provide an interactive exchange and networking area and make materials produced during training courses freely available;
- (d) support to international bodies promoting principles and policies which are consistent with the objectives of the Programme.
6. Enhancing the transparency of consumer markets and consumer information, ensuring consumers have comparable, reliable and easily accessible data, including for cross-border cases, to help them compare not only prices, but also quality and sustainability of goods and services:
- (a) awareness-raising campaigns on issues affecting consumers, including through joint actions with Member States;
- (b) actions enhancing the transparency of consumers markets with regard to, for instance, retail financial products, energy, digital and telecommunications, transport;
- (c) actions facilitating consumers' access to relevant, comparable, reliable and easily accessible information on goods, services and markets, particularly on prices, quality and sustainability of goods and services, whether this be offline or online, for instance through comparison websites and actions ensuring the high quality and trustworthiness of such websites, including for cross-border purchases;
- (d) actions enhancing consumers' access to information on sustainable consumption of goods and services;
- (e) support to events concerning consumer policy of the Union which are organised by the Member State holding the Presidency of Council configurations, other than that of Foreign Affairs on issues in line with established Union policy priorities;
- (f) financial contributions to national complaint bodies to assist with the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries;
- (g) support to Union-wide bodies for the development of codes of conduct, best practices and guidelines for price, quality, and sustainability comparison, including through comparison websites;
- (h) support for communication on consumer issues, including by encouraging the dissemination by the media of correct and relevant information on consumer issues.
7. Enhancing consumer education as a life-long process with a particular focus on vulnerable consumers:
- (a) development of an interactive platform for exchange of best practices and materials for lifelong consumer education with a particular focus on vulnerable consumers that have difficulties in accessing and comprehending consumer information, in order to ensure that they are not misled;
- (b) development of education measures and materials in collaboration with stakeholders such as national authorities, teachers, consumer organisations and those active at grass-roots level, in particular by making use (e.g. collection, compilation, translation and diffusion) of materials produced at national level or for previous initiatives, on various media including digital, on e.g. consumer rights including cross-border issues, health and safety, Union consumer legislation, sustainable and ethical consumption including Union certification schemes, financial and media literacy.

Objective III**Rights and redress: to develop and reinforce consumer rights in particular through smart regulatory action and improving access to simple, efficient, expedient and low-cost redress including alternative dispute resolution**

8. Preparation by the Commission of consumer protection legislation and other regulatory initiatives, monitoring the transposition by Member States and the subsequent evaluation of its impact, and the promotion of co-regulatory and self-regulatory initiatives and monitoring the real impact of those initiatives on consumer markets, including:
 - (a) studies and smart regulation activities such as *ex-ante* and *ex-post* evaluations, impact assessments, public consultations, evaluation and simplification of existing legislation;
 - (b) seminars, conferences, workshops and meetings of stakeholders and experts;
 - (c) development and maintenance of easily and publicly accessible databases covering the implementation of Union legislation on consumer protection;
 - (d) evaluation of actions undertaken under the Programme.
9. Facilitating access to dispute resolution mechanisms for consumers, in particular to alternative dispute resolution schemes, including through a Union-wide online system and the networking of national alternative dispute resolution entities, paying specific attention to adequate measures for vulnerable consumers' needs and rights; monitoring of the functioning and the effectiveness of dispute resolution mechanisms for consumers, including through the development and maintenance of relevant IT tools and the exchange of current best practices and experience in the Member States:
 - (a) development and maintenance of IT tools;
 - (b) support for the development of a Union-wide online dispute resolution system and its maintenance, including for associated services such as translation;
 - (c) support for networking of national alternative dispute resolution entities, and for their exchanging and disseminating good practice and experiences;
 - (d) development of specific tools to facilitate access to redress for vulnerable people who are less inclined to seek redress.

Objective IV**Enforcement: to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice**

10. Coordination of surveillance and enforcement actions with regard to Regulation (EC) No 2006/2004, including:
 - (a) development and maintenance of IT tools, such as databases, information and communication systems;
 - (b) actions to improve cooperation between authorities as well as coordination of monitoring and enforcement such as exchanges of enforcement officials, common activities, trainings for enforcement officials and for members of the judiciary;
 - (c) organisation of seminars, conferences, workshops and meetings of stakeholders and experts on enforcement;
 - (d) administrative and enforcement cooperation with third countries which are not participating in the Programme and with international organisations.
 11. Financial contributions for joint actions with public or non-profit bodies constituting Union networks which provide information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution, including out of court online resolution schemes (European Consumer Centres Network), also covering:
 - (a) the development and maintenance of IT tools, such as databases, information and communication systems, necessary for the proper functioning of the European Consumer Centres Network;
 - (b) actions to raise the profile and visibility of European Consumer Centres.
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ANNEX II

INDICATORS IN ACCORDANCE WITH ARTICLE 3 OF THIS REGULATION

Objective I**Safety: to consolidate and enhance product safety through effective market surveillance throughout the Union**

Indicator	Source	Current situation	Target
% of RAPEX notifications entailing at least one reaction (by other Member States)	RAPEX	43 % (843 notifications) in 2010	Increase of 10 % by 2020
Ratio number of reactions/number of notifications (serious risks) (*)	RAPEX	1,07 in 2010	Increase of 15 % by 2020

(*) a notification can trigger several reactions from authorities of other Member States

Objective II**Consumer information and education, and support to consumer organisations: to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations, including taking into account the specific needs of vulnerable consumers**

Indicator	Source	Current situation	Target
Number of complaint bodies and number of countries submitting complaints to the ECCRS	ECCRS (European Consumer Complaints Registration system)	33 complaint bodies from 7 countries in 2012	70 complaint bodies from 20 countries by 2020

Objective III**Rights and redress: to develop and reinforce consumer rights in particular through smart regulatory action and improving access to simple, efficient, expedient and low-cost redress including alternative dispute resolution**

Indicator	Source	Current situation	Target
% of those cases dealt with by the ECCs and not resolved directly with traders which were subsequently referred to alternative dispute resolution (ADR)	Annual ECC report	9 % in 2010	75 % by 2020
Number of cases dealt with by a Union-wide online dispute resolution (ODR) system	ODR platform	17 500 (complaints received by ECCs related to e-commerce transactions) in 2010	100 000 by 2020
% of consumers who took action in response to a problem encountered in the past 12 months	Consumer Scoreboard	83 % in 2010	90 % by 2020

Objective IV

Enforcement: to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice

Indicator	Source	Current situation	Target
Level of information flow and cooperation within the CPC Network:	CPC Network Database (CPCS)	annualised averages 2007-10	
— number of requests to exchange information between CPC authorities		129	— increase of 30 % by 2020
— number of requests for enforcement measures between CPC authorities		142	— increase of 30 % by 2020
— number of alerts within the CPC Network		63	— increase of 30 % by 2020
% of enforcement requests handled within 12 months within the CPC Network	CPC Network Database (CPCS)	50 % (reference period 2007-10)	60 % by 2020
% of information requests handled within 3 months within the CPC Network	CPC Network Database (CPCS)	33 % (reference period 2007-10)	50 % by 2020
Number of contacts with consumers handled by the European Consumer Centres (ECC)	ECC report	71 000 in 2010	Increase of 50 % by 2020
Number of visits to the websites of the ECCs	ECC-Net Evaluation Report	1 670 000 in 2011	Increase of 70 % by 2020

These indicators might be considered in conjunction with general context and horizontal indicators.

REGULATION (EU) No 255/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

amending Council Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 in the field of imports of olive oil and other agricultural products from Turkey, as regards the delegated and implementing powers to be conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Council Regulation (EC) No 2008/97 ⁽²⁾ confers powers on the Commission allowing it to adopt detailed rules for the application of the special arrangements for imports of olive oil and other agricultural products originating in Turkey. It also confers powers on the Commission to adopt adjustments to that Regulation, should the special arrangements provided for in the relevant Association Agreement be amended.
- (2) Council Regulation (EC) No 779/98 ⁽³⁾ confers powers on the Commission allowing it to adopt special detailed rules for the application of the import regime for products listed in Annex I to the Treaty on the Functioning of the European Union (TFEU), which originate in Turkey and which are allowed for import into the Union under the conditions laid down in Decision No 1/98 of the EC-Turkey Association Council ⁽⁴⁾.
- (3) Council Regulation (EC) No 1506/98 ⁽⁵⁾ confers powers on the Commission allowing it to repeal the suspension measures referred to in that Regulation, once the barriers to preferential exports from the Union to Turkey have been lifted.

- (4) As a consequence of the entry into force of the Treaty of Lisbon, the powers conferred on the Commission under Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 should be aligned to Articles 290 and 291 TFEU.
- (5) In order to supplement or amend certain non-essential elements of Regulation (EC) No 2008/97, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amendments to that Regulation which are necessary where the present conditions of the special arrangements provided for in the Association Agreement are amended, in particular as regards the amounts, or where a new agreement is concluded. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (6) In order to ensure uniform conditions for the implementation of Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁶⁾.
- (7) Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2008/97 is amended as follows:

- (1) Articles 7 and 8 are replaced by the following:

'Article 7

The Commission shall, by means of implementing acts, adopt rules necessary for the application of the special import arrangements laid down in this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8b(2).

⁽¹⁾ Position of the European Parliament of 14 January 2014 (not yet published in the Official Journal) and decision of the Council of 17 February 2014.

⁽²⁾ Council Regulation (EC) No 2008/97 of 9 October 1997 laying down certain rules for the application of the special arrangements for imports of olive oil and certain other agricultural products originating in Turkey (OJ L 284, 16.10.1997, p. 17).

⁽³⁾ Council Regulation (EC) No 779/98 of 7 April 1998 on the import into the Community of agricultural products originating in Turkey, repealing Regulation (EEC) No 4115/86 and amending Regulation (EC) No 3010/95 (OJ L 113, 15.4.1998, p. 1).

⁽⁴⁾ OJ L 86, 20.3.1998, p. 1.

⁽⁵⁾ Council Regulation (EC) No 1506/98 of 13 July 1998 establishing a concession in the form of a Community tariff quota for Turkey in 1998 in respect of hazelnuts and suspending certain concessions (OJ L 200, 16.7.1998, p. 1).

⁽⁶⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Article 8

In order to comply with international commitments and where the Council has decided to approve the amendments of the present conditions of the special arrangements provided for in the Association Agreement or to conclude a new agreement, the Commission shall be empowered to adopt delegated acts in accordance with Article 8a concerning the resulting amendments to this Regulation.

(2) The following articles are inserted:

Article 8a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 8 shall be conferred on the Commission for a period of five years from 9 April 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 8 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 8 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 8b

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the

Council (*). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (**).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or at least a quarter of committee members so request.

(*) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Article 2

Regulation (EC) No 779/98 is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

The Commission shall, by means of implementing acts, adopt rules necessary for the application of the import regime for the products listed in Annex I to the Treaty on the Functioning of the European Union which originate in Turkey and which are imported into the Union under the conditions laid down in Decision No 1/98 of the EC-Turkey Association Council. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 2a(2).

(2) The following article is inserted:

Article 2a

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council (*). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (**).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or at least a quarter of committee members so request.

(*) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13):.

Article 3

Regulation (EC) No 1506/98 is amended as follows:

(1) Article 3 is replaced by the following:

Article 3

The Commission shall, by means of implementing acts, terminate the suspension measures referred to in Article 2 once the barriers to preferential exports from the Union to Turkey have been lifted. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 3a(2):.

(2) The following article is inserted:

Article 3a

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council (*). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (**).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or at least a quarter of committee members so request.

(*) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13):.

Article 4

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 Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

Commission Statement on codification

The adoption of this Regulation will entail a substantial number of amendments to the acts in question. In order to improve the legibility of the acts concerned, the Commission will propose a codification of the acts as expeditiously as possible once the Regulation is adopted, and at the latest by 30 September 2014.

Commission Statement on delegated acts

In the context of this Regulation, the Commission recalls the commitment it has taken in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.

REGULATION (EU) No 256/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014

concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Obtaining an overall picture of the development of investment in energy infrastructure in the Union is essential for the development of the Union's energy policy and for the Commission to perform its tasks in the field of energy. The availability of regular and up-to-date data and information should enable the Commission to make the necessary comparisons and evaluations and to propose relevant measures based on appropriate figures and analysis, in particular concerning the future balance between energy supply and demand.
- (2) The energy landscape within and outside the Union has changed significantly in recent years and makes investment in energy infrastructure a crucial issue for securing the Union's energy supply, for the functioning of the internal market and for the transition towards a low-carbon energy system which the Union has begun.
- (3) The new energy context requires significant investment in all kinds of infrastructure in all energy sectors as well as the development of new types of infrastructure and

new technologies to be taken up by the market. The liberalisation of the energy sector and the further integration of the internal market give a more prominent role to economic operators for investment. At the same time, new policy requirements such as targets affecting the fuel mix will alter Member States' policies towards new and/or modernised energy infrastructure.

- (4) In this context, greater attention should be paid to investment in energy infrastructure in the Union, in particular with a view to anticipating problems, promoting best practices and establishing greater transparency on the future development of the Union's energy system.
- (5) The Commission and in particular its Market Observatory for Energy should therefore have at its disposal accurate data and information on investment projects, including decommissioning, in the most significant components of the Union's energy system.
- (6) Data and information regarding foreseeable developments in production, transmission and storage capacities and projects in the various energy sectors are of interest to the Union and are important to future investment. It is therefore necessary to ensure that the Commission is notified of investment projects on which construction or decommissioning work has started or on which a final investment decision has been taken.
- (7) Pursuant to Articles 41 and 42 of the Treaty establishing the European Atomic Energy Community (Euratom Treaty), undertakings are under an obligation to notify their investment projects. It is necessary to supplement such information with, in particular, a regular reporting on the implementation of investment projects. Such additional reporting is without prejudice to Articles 41 to 44 of the Euratom Treaty. However, imposing a double burden on undertakings should be avoided wherever possible.
- (8) In order for the Commission to have a consistent view of the future developments of the Union's energy system as a whole, a harmonised reporting framework for investment projects based on updated categories of official data and information to be transmitted by the Member States is necessary.

⁽¹⁾ OJ C 271, 19.9.2013, p. 153.

⁽²⁾ Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

- (9) Member States should, to this end, notify to the Commission data and information on investment projects in energy infrastructure planned or under construction in their territory concerning the production, storage and transport of oil, natural gas, electricity, including electricity from renewable sources, electricity from coal and lignite, and the co-generation of electricity and useful heat; the production of bio-fuels; and the capture, transport and storage of carbon dioxide. Member States should also notify to the Commission data and information on investment projects in electricity interconnections and gas interconnections with third countries. Undertakings concerned should be under an obligation to notify such data and information to the Member State concerned.
- (10) Given the time horizon of investment projects in the energy sector, reporting every two years should be sufficient.
- (11) With a view to avoiding disproportionate administrative burdens and to minimise costs to Member States and undertakings, in particular for small and medium-sized enterprises, this Regulation should allow Member States and undertakings to be exempted from reporting obligations provided that equivalent information has already been supplied to the Commission pursuant to energy sector-specific Union legal acts, aiming at achieving the objectives of competitive energy markets in the Union, of sustainability of the Union's energy system and of the security of energy supply to the Union. Any duplication of reporting requirements specified in the third internal market package for electricity and natural gas should therefore be avoided. In order to ease the reporting burden, the Commission should provide support to Member States with a view to clarify in which cases it considers that data or information already notified to it under other legal acts meet the requirements of this Regulation.
- (12) The Commission, and in particular its Market Observatory for Energy, should be able to take all appropriate measures to process data and to simplify and secure data notification, and in particular to operate integrated IT tools and procedures, which should guarantee the confidentiality of the data or information notified to the Commission.
- (13) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾, while the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾. This Regulation leaves those provisions intact.
- (14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data and information related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate those data in such a way as to prevent any details concerning individual undertakings or installations from being disclosed or inferred.
- (15) The Commission and in particular its Market Observatory for Energy should provide a regular and cross-sector analysis of the structural evolution and perspectives of the Union's energy system and, where appropriate, more focused analysis on certain aspects of that energy system. That analysis should in particular contribute to enhancing energy security by identifying possible infrastructure and investment gaps with a view to achieving a balance between energy supply and demand. The analysis should also form a contribution to a discussion at Union level about energy infrastructures and should therefore be forwarded to the European Parliament, to the Council and to the European Economic and Social Committee and made available to interested parties.
- (16) Small and medium-sized enterprises will be able to benefit, in the context of their investment planning, from the Commission's cross-sector analysis and the data and information published by the Commission under this Regulation.
- (17) The Commission may be assisted by experts from Member States or any other competent experts with a view to developing a common understanding of potential infrastructure gaps and associated risks and to fostering transparency regarding future developments, which is of particular interest for new market entrants.

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

- (18) This Regulation should replace Council Regulation (EU, Euratom) No 617/2010⁽¹⁾, which was annulled by the Court of Justice on 6 September 2012⁽²⁾ and the effects of which were to be maintained until the entry into force of a new regulation. Therefore, with the entry into force of this Regulation, the annulment of Regulation (EU, Euratom) No 617/2010, as ruled by the Court, should take effect. Furthermore, Council Regulation (EC) No 736/96⁽³⁾, that was repealed by the annulled Regulation (EU, Euratom) No 617/2010, should be repealed by this Regulation.
- (19) The form and technical details of the notification to the Commission of data and information on investment projects in energy infrastructure are set out in the Commission Regulation (EU, Euratom) No 833/2010⁽⁴⁾. Regulation (EU, Euratom) No 833/2010 should remain applicable until its revision, which will follow the adoption of this Regulation.
- (20) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the sectors of oil, natural gas, electricity — including electricity from renewable sources, electricity from coal and lignite, and cogeneration of electricity and useful heat — as well as on investment projects related to bio-fuel production and the capture, transport and storage of carbon dioxide produced by those sectors.

2. This Regulation shall apply to investment projects of the types listed in the Annex on which construction or decommissioning work has started or on which a final investment decision has been taken.

⁽¹⁾ Council Regulation (EU, Euratom) No 617/2010 of 24 June 2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and repealing Regulation (EC) No 736/96 (OJ L 180, 15.7.2010, p. 7).

⁽²⁾ Judgment of the Court of Justice of 6 September 2012 in Case C-490/10, Parliament v Council (ECR 2012, p. I-00000).

⁽³⁾ Council Regulation (EC) No 736/96 of 22 April 1996 on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors (OJ L 102, 25.4.1996, p. 1).

⁽⁴⁾ Commission Regulation (EU, Euratom) No 833/2010 of 21 September 2010 implementing Council Regulation (EU, Euratom) No 617/2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union (OJ L 248, 22.9.2010, p. 36).

Member States may furthermore submit any estimated data or preliminary information on investment projects of the types listed in the Annex on which construction work is scheduled to start within five years and on those which are scheduled to be decommissioned within three years, but for which a final investment decision has not been taken.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) 'infrastructure' means any type of installations or part of an installation relating to production, transmission and storage, including interconnections between the Union and third countries;
- (2) 'investment projects' means projects aiming at:
- (i) building new infrastructure;
 - (ii) transforming, modernising, increasing or reducing the capacity of existing infrastructure;
 - (iii) partial or total decommissioning of existing infrastructure;
- (3) 'final investment decision' means the decision taken at the level of an undertaking to definitively earmark funds for the investment phase of a project;
- (4) 'investment phase' means the phase during which construction or decommissioning takes place and capital costs are incurred; it excludes the planning phase;
- (5) 'planning phase' means the phase during which project implementation is prepared and which includes, where appropriate, a feasibility assessment, preparatory and technical studies, obtaining licences and authorisations and incurring capital costs;
- (6) 'investment projects under construction' means investment projects for which construction has started and capital costs have been incurred;
- (7) 'decommissioning' means the phase where an infrastructure is permanently taken out of operation;

- (8) 'production' means the generation of electricity and the processing of fuels, including bio-fuels;
- (9) 'transmission' means the transport of energy sources or products or carbon dioxide, through a network, in particular:
- (i) through pipelines, other than an upstream pipeline network and other than the part of pipelines primarily used in the context of local distribution; or
 - (ii) through extra-high-voltage and high-voltage interconnected systems and other than the systems primarily used in the context of local distribution;
- (10) 'capture' means the process of capturing carbon dioxide from industrial installations for storage;
- (11) 'storage' means the stocking on a permanent or temporary basis of energy or energy sources in above-ground or underground infrastructure or geological sites or containment of carbon dioxide in underground geological formations;
- (12) 'undertaking' means any natural or legal private or public person, deciding or implementing investment projects;
- (13) 'energy sources' means:
- (i) primary energy sources, such as oil, natural gas or coal;
 - (ii) transformed energy sources, such as electricity;
 - (iii) renewable energy sources including hydroelectricity, biomass, biogas, wind, solar, tidal, wave and geothermal energy; and
 - (iv) energy products, such as refined oil products and bio-fuels;
- (14) 'specific body' means a body entrusted by any energy sector-specific legal act of the Union with the preparation and adoption of Union-wide multi-annual network development and investment plans in energy infrastructure, such as the European network of transmission system operators for electricity ('ENTSO-E') referred to in Article 4 of Regulation (EC) No 714/2009 of the European Parliament and of the Council⁽¹⁾ and the European network for transmission system operators for gas ('ENTSO-G') referred to in Article 4 of Regulation (EC) No 715/2009 of the European Parliament and of the Council⁽²⁾;

- (15) 'aggregated data' means data aggregated at the level of one or more Member States.

Article 3

Notification of data

1. While keeping the collection and reporting burden proportionate, Member States or the entities to which they delegate that task shall compile all the data and information required under this Regulation as from 1 January 2015 and every two years thereafter.

They shall notify the data and relevant project information specified in this Regulation to the Commission in 2015, that year being the first reporting year, and from then onwards every two years. That notification shall be made in aggregated form, except for data and relevant information relating to cross-border transmission projects.

Member States or their delegated entities shall notify aggregated data and relevant project information by 31 July of the reporting year concerned.

2. Member States or their delegated entities are exempted from the obligations set out in paragraph 1, provided that, and to the extent that, pursuant to energy sector-specific legal acts of the Union or the Euratom Treaty:

- (a) the Member State concerned or its delegated entity has already notified to the Commission data or information equivalent to that required under this Regulation and has indicated the date of that notification and the specific legal act concerned; or
- (b) a specific body is entrusted with the preparation of a multi-annual investment plan in energy infrastructure at Union level and, to that end, compiles data and information equivalent to that required under this Regulation. In this case and for the purposes of this Regulation, that specific body shall notify all the relevant data and information to the Commission.

Article 4

Data sources

The undertakings concerned shall notify the data or information referred to in Article 3 to the Member States, or their delegated entities, in whose territory they are planning to carry out investment projects before 1 June of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the relevant reporting year.

⁽¹⁾ Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ L 211, 14.8.2009, p. 15).

⁽²⁾ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

The first paragraph shall not apply to undertakings where the Member State concerned decides to use other means of supplying the Commission with the data or information referred to in Article 3, provided that the data or information supplied are comparable.

Article 5

Content of the notification

1. With regard to investment projects of the types listed in the Annex, the notification provided for in Article 3 shall indicate, where appropriate:

- (a) the volume of the capacity planned or under construction;
- (b) the type and main characteristics of infrastructure or capacity planned or under construction, including the location of cross-border transmission projects, if applicable;
- (c) the probable year of commissioning;
- (d) the type of energy sources used;
- (e) the installations capable of responding to security of supply crises, such as equipment enabling reverse flows or fuel switching; and
- (f) the equipment of carbon capture systems or retrofitting mechanisms for carbon capture and storage.

2. With regard to any proposed decommissioning of capacities, the notification provided for in Article 3 shall indicate:

- (a) the character and the capacity of the infrastructure concerned; and
- (b) the probable year of decommissioning.

3. Any notification under Article 3 shall include where appropriate:

- (a) the total volume of installed production, transmission and storage capacities which are in place at the beginning of the reporting year concerned or whose operation is interrupted for a period exceeding three years; and
- (b) relevant information concerning delays and/or obstacles to the implementation of an investment project, where Member States, their delegated entities or the specific body concerned possess that information.

Article 6

Quality and publicity of data

1. Member States, their delegated entities or, where appropriate, the specific bodies shall aim to ensure the quality, relevance, accuracy, clarity, timeliness and coherence of the data and information which they notify to the Commission.

Where specific bodies make the notification, the data and information notified may be accompanied by appropriate comments from Member States.

2. The Commission may publish aggregated data and information forwarded pursuant to this Regulation, in particular in analyses referred to in Article 10(3), provided that no details concerning individual undertakings and installations are disclosed or can be inferred.

3. Member States, their delegated entities, or the Commission shall each preserve the confidentiality of commercially-sensitive data or information in their possession.

Article 7

Implementing provisions

Within the limits laid down by this Regulation, by 10 June 2014, the Commission shall adopt the provisions necessary for the implementation of this Regulation, concerning the form and other technical details of the notification of data and information referred to in Articles 3 and 5. Until then, Regulation (EU, Euratom) No 833/2010 shall remain applicable.

Article 8

Data processing

The Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data or information on energy infrastructure which is notified to it pursuant to this Regulation.

The Commission shall also ensure that the IT resources referred to in the first paragraph guarantee the confidentiality of the data or information which is notified to it pursuant to this Regulation.

Article 9

Protection of individuals with regards to the processing of data

This Regulation is without prejudice to Union law and, in particular, does not alter Member States' obligations with regard to the processing of personal data, as laid down in Directive 95/46/EC, or the obligations incumbent upon the Union's institutions and bodies under Regulation (EC) No 45/2001 with regard to the processing of personal data by them in the course of their duties.

Article 10

Monitoring and reporting

1. On the basis of data and information forwarded and, if appropriate, of any other data sources including data purchased by the Commission, and taking into account relevant analyses such as the multi-annual network development plans for gas and for electricity, the Commission shall forward to the European Parliament, to the Council and to the European Economic and Social Committee and shall publish every two years a cross-sector analysis of the structural evolution and perspectives of the Union's energy system. That analysis shall aim in particular at:

- (a) identifying potential future gaps between the demand and supply of energy that are of significance for the Union's energy policy, including for the functioning of the internal energy market, with an emphasis on potential future deficiencies and flaws in the production and transmission infrastructure;
- (b) identifying investment obstacles and promoting best practices to address them; and
- (c) increasing transparency for market participants and potential market entrants.

On the basis of this data and information, the Commission may also provide any specific analysis deemed necessary or appropriate.

2. In preparing the analyses referred to in paragraph 1, the Commission may be assisted by experts from Member States and/or any other experts, professional associations with specific competence in the area concerned.

The Commission shall provide all Member States with an opportunity to comment on the draft analyses.

3. The Commission shall discuss the analyses with interested parties, such as ENTSO-E, ENTSO-G, the Gas Coordination Group, the Electricity Coordination Group and the Oil Coordination Group.

Article 11

Review

By 31 December 2016, the Commission shall review the implementation of this Regulation, and present a report on the results

of that review to the European Parliament and to the Council. In the review, the Commission shall, *inter alia*, examine:

- (a) the possible extension of the scope of this Regulation to include:
 - (i) the extraction of gas, oil and coal;
 - (ii) terminals for compressed natural gas;
 - (iii) additional types of electricity storage; and
- (b) the question as to whether or not thresholds for renewable energy installations should be lowered.

In examining those options, the Commission shall take into account the need to ensure a balance between the increased administrative burden and the benefits of acquiring the additional information.

Article 12

Repeal

Regulation (EC) No 736/96 shall be repealed from 9 April 2014.

Article 13

Entry into force

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

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

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX

INVESTMENT PROJECTS

1. OIL

1.1. Refining

- distillation plants with a capacity of not less than 1 million tonnes a year,
- extension of distilling capacity beyond 1 million tonnes a year,
- reforming/cracking plants with a minimum capacity of 500 tonnes a day,
- desulphurisation plants for residual fuel oil/gas oil/feedstock/other petroleum products,

Chemical plants which do not produce fuel oil and/or motor fuels, or which produce them only as by-products, are excluded.

1.2. Transport

- crude oil pipelines with a capacity of not less than 3 million metric tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long,
- petroleum product pipelines with a capacity of not less than 1,5 million tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long,
- pipelines which constitute essential links in national or international interconnecting networks and pipelines and projects of common interest identified in the guidelines established under Article 171 of the Treaty on the Functioning of the European Union ("TFEU").

Pipelines for military purposes and those supplying plants outside the scope of point 1.1. are excluded.

1.3. Storage

- storage installations for crude oil and petroleum products (installations with a capacity of 150 000 m³ or more or, in the case of tanks, with a capacity not less than 100 000 m³),

Tanks intended for military purposes and those supplying plants outside the scope of point 1.1. are excluded.

2. GAS

2.1. Transmission

- gas, including natural gas and biogas, transport pipelines that form part of a network which mainly contains high-pressure pipelines, excluding pipelines that form part of an upstream pipeline network and excluding the part of high-pressure pipelines primarily used in the context of local distribution of natural gas,
- 'pipelines and projects of common interest' identified in the guidelines established under Article 171 TFEU.

2.2. Liquefied natural gas (LNG) terminals

- terminals for the import of LNG, with a regasification capacity of 1 billion m³ per year or more.

2.3. Storage

- storage installations connected to the transport pipelines referred to in point 2.1.

Gas pipelines, terminals and installations for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.

3. ELECTRICITY

3.1. Production

- thermal and nuclear power stations (generators with a capacity of 100 MWe or more),
- biomass/bioliquids/waste power generation installations (with a capacity of 20 MW or more),
- power stations with cogeneration of electricity and useful heat (installations with an electrical capacity of 20 MW or more),
- hydro-electric power stations (installations having a capacity of 30 MW or more),
- wind power farms with a capacity of 20 MW or more,
- concentrated solar thermal and geothermal installations (with a capacity of 20 MW or more),
- photovoltaic installations (with a capacity of 10 MW or more).

3.2. Transmission

- overhead transmission lines, if they have been designed for the voltage commonly used at national level for the interconnection lines, and provided they have been designed for a voltage of 220 kV or more,
- underground and submarine transmission cables, if they have been designed for a voltage of 150 kV or more,
- projects of common interest identified in the guidelines established under Article 171 TFEU.

4. BIOFUEL

4.1. Production

- Installations that are able to produce or refine bio-fuels (installations with a capacity of 50 000 tonnes/year or more).

5. CARBON DIOXIDE

5.1. Transport

- Carbon dioxide pipelines related to the production installations referred to in points 1.1. and 3.1.

5.2. Storage

- storage installations (storage site or complex with a capacity of 100 kt or more),

Storage installations intended for research and technological development are excluded.

**REGULATION (EU) No 257/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 26 February 2014**

**amending Council Regulation (EC) No 2368/2002 as regards the inclusion of Greenland in
implementing the Kimberley Process certification scheme**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) Council Regulation (EC) No 2368/2002 ⁽²⁾ sets up a Community System of certification and import and export controls for rough diamonds for the purposes of implementing the Kimberley Process certification scheme.

(2) Greenland is not part of the Union territory but it is included in the list of overseas countries and territories set out in Annex II to the Treaty on the Functioning of the European Union (TFEU). In accordance with Article 198 TFEU, the purpose of the association of the overseas countries and territories with the Union is to promote the economic and social development of the overseas countries and territories and to establish close economic relations between them and the Union as a whole.

(3) Council Decision 2014/136/EU ⁽³⁾ sets out the rules and procedures enabling Greenland's participation in the

Kimberley Process certification scheme on rough diamonds through its cooperation with the Union. Such cooperation would strengthen economic relations between the Union and Greenland in the diamond industry, and in particular it would enable Greenland to export rough diamonds accompanied by the EU Certificate issued for the purposes of the certification scheme, with a view to promoting the economic development of Greenland.

(4) Regulation (EC) No 2368/2002 should be amended in order to enable Decision 2014/136/EU to enter into force and in particular to provide for the inclusion of Greenland in the certification scheme.

(5) Accordingly, Greenland will be prohibited from accepting imports or exports of rough diamonds to or from a participant other than the Union without a valid certificate. The amendments contained in this Regulation will allow for the export of rough diamonds from Greenland to third countries as long as they are accompanied by the EU Certificate.

(6) In addition to the existing condition for certification requiring evidence that the rough diamonds were lawfully imported into the Union, an alternative condition should be introduced for diamonds mined and extracted in Greenland that have never been exported before, in particular to provide evidence in this regard.

(7) In addition, amendments should be made to the detailed arrangements for submitting rough diamonds to Union authorities for verification, extending to Greenland the special rules for transit, enabling Greenland's participation in the Committee for the implementation of Regulation (EC) No 2368/2002 and providing for Greenland's representation in the Kimberley Process and cooperation with other Member States through the Commission.

(8) Regulation (EC) No 2368/2002 should therefore be amended accordingly,

⁽¹⁾ Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

⁽²⁾ Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ L 358, 31.12.2002, p. 28).

⁽³⁾ Council Decision 2014/136/EU of 20 February 2014 laying down rules and procedures to enable the participation of Greenland in the Kimberley Process certification scheme (See page 99 of this Official Journal).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2368/2002 is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

This Regulation sets up a Union system of certification and import and export controls for rough diamonds for the purposes of implementing the Kimberley Process certification scheme.

For the purposes of the certification scheme, the territory of the Union and that of Greenland shall be considered as one entity without internal borders.

This Regulation does not prejudice or substitute any provisions in force relating to customs formalities and controls.;

(2) in Article 3, the introductory phrase is replaced by the following:

The import of rough diamonds into the Community (*) territory or Greenland shall be prohibited unless all of the following conditions are fulfilled:

(*) With effect from 1 December 2009 the Treaty on the Functioning of the European Union introduced certain changes in terminology, such as the replacement of "Community" by "Union".;

(3) in Article 4, paragraph 1 is replaced by the following:

'1. Containers and the corresponding certificates shall without delay be submitted for verification together, to a Community authority either in the Member State where they are imported or in the Member State for which they are destined, as indicated in accompanying documents. Containers destined for Greenland shall be submitted for verification to one of the Community authorities, either in the Member State where they are imported, or in one of the other Member States where a Community authority is established.;

(4) in Article 8, paragraph 1 is replaced by the following:

'1. The Commission shall consult participants on the practical arrangements for providing the competent authority of the exporting participant that has validated a certificate with confirmation of imports into the Community territory or Greenland.;

(5) in Article 11, the introductory phrase is replaced by the following:

'The export from the Community territory or Greenland of rough diamonds shall be prohibited unless both of the following conditions are fulfilled.;

(6) in Article 12(1), point (a) is replaced by the following:

'(a) the exporter has provided conclusive evidence that:

(i) the rough diamonds for which a certificate is being requested were lawfully imported in accordance with Article 3; or

(ii) the rough diamonds for which a certificate is being requested were mined or extracted in Greenland in case the rough diamonds have not been previously exported to a participant other than the Union.;

(7) Article 18 is replaced by the following:

'Article 18

Articles 4, 11, 12, and 14 shall not apply to rough diamonds which enter the Community territory or Greenland solely for the purposes of transit to a participant outside those territories, on condition that neither the original container in which rough diamonds are being transported nor the original accompanying certificate issued by a competent authority of a participant has been tampered with at entry into or exit from the Community territory or Greenland, and the transit purpose is clearly attested by the accompanying certificate.;

(8) Article 21 is replaced by the following:

'Article 21

1. The Union, including Greenland, shall be a participant in the KP certification scheme.

2. The Commission, which represents the Union, including Greenland, in the KP certification scheme, shall aim to ensure optimal implementation of the KP certification scheme, in particular through cooperation with participants. To this end, the Commission shall, in particular, exchange information with participants on international trade in rough diamonds and, where appropriate, cooperate in monitoring activities and in the settlement of any disputes that may arise.;

(9) Article 23 is replaced by the following:

'Article 23

The Committee referred to in Article 22 may examine any question concerning the application of this Regulation. Such questions may be raised either by the chairman or by a representative of a Member State or Greenland.;

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 Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

DIRECTIVES

DIRECTIVE 2014/26/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 2014

on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50(1) and 53(1) and Article 62 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Union Directives which have been adopted in the area of copyright and related rights already provide a high level of protection for rightholders and thereby a framework wherein the exploitation of content protected by those rights can take place. Those Directives contribute to the development and maintenance of creativity. In an internal market where competition is not distorted, protecting innovation and intellectual creation also encourages investment in innovative services and products.
- (2) The dissemination of content which is protected by copyright and related rights, including books, audiovisual productions and recorded music, and services linked thereto, requires the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholder to choose between the individual or collective management of his rights, unless Member

States provide otherwise, in compliance with Union law and the international obligations of the Union and its Member States. Management of copyright and related rights includes granting of licences to users, auditing of users, monitoring of the use of rights, enforcement of copyright and related rights, collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. Collective management organisations enable rightholders to be remunerated for uses which they would not be in a position to control or enforce themselves, including in non-domestic markets.

- (3) Article 167 of the Treaty on the Functioning of the European Union (TFEU) requires the Union to take cultural diversity into account in its action and to contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore. Collective management organisations play, and should continue to play, an important role as promoters of the diversity of cultural expression, both by enabling the smallest and less popular repertoires to access the market and by providing social, cultural and educational services for the benefit of their rightholders and the public.
- (4) When established in the Union, collective management organisations should be able to enjoy the freedoms provided by the Treaties when representing rightholders who are resident or established in other Member States or granting licences to users who are resident or established in other Member States.
- (5) There are significant differences in the national rules governing the functioning of collective management organisations, in particular as regards their transparency and accountability to their members and rightholders. This has led in a number of instances to difficulties, in particular for non-domestic rightholders when they seek to exercise their rights, and to poor financial management of the revenues collected. Problems with the functioning of collective management organisations lead to inefficiencies in the exploitation of copyright and related rights across the internal market, to the detriment of the members of collective management organisations, rightholders and users.

⁽¹⁾ OJ C 44, 15.2.2013, p. 104.

⁽²⁾ Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

- (6) The need to improve the functioning of collective management organisations has already been identified in Commission Recommendation 2005/737/EC ⁽¹⁾. That Recommendation set out a number of principles, such as the freedom of rightholders to choose their collective management organisations, equal treatment of categories of rightholders and equitable distribution of royalties. It called on collective management organisations to provide users with sufficient information on tariffs and repertoire in advance of negotiations between them. It also contained recommendations on accountability, rightholder representation in the decision-making bodies of collective management organisations and dispute resolution. However, the Recommendation has been unevenly followed.
- (7) The protection of the interests of the members of collective management organisations, rightholders and third parties requires that the laws of the Member States relating to copyright management and multi-territorial licensing of online rights in musical works should be coordinated with a view to having equivalent safeguards throughout the Union. Therefore, this Directive should have as a legal base Article 50(1) TFEU.
- (8) The aim of this Directive is to provide for coordination of national rules concerning access to the activity of managing copyright and related rights by collective management organisations, the modalities for their governance, and their supervisory framework, and it should therefore also have as a legal base Article 53(1) TFEU. In addition, since it is concerned with a sector offering services across the Union, this Directive should have as a legal base Article 62 TFEU.
- (9) The aim of this Directive is to lay down requirements applicable to collective management organisations, in order to ensure a high standard of governance, financial management, transparency and reporting. This should not, however, prevent Member States from maintaining or imposing, in relation to collective management organisations established in their territories, more stringent standards than those laid down in Title II of this Directive, provided that such more stringent standards are compatible with Union law.
- (10) Nothing in this Directive should preclude a Member State from applying the same or similar provisions to collective management organisations which are established outside the Union but which operate in that Member State.
- (11) Nothing in this Directive should preclude collective management organisations from concluding representation agreements with other collective management organisations — in compliance with the competition rules laid down by Articles 101 and 102 TFEU — in the area of rights management in order to facilitate, improve and simplify the procedures for granting licences to users, including for the purposes of single invoicing, under equal, non-discriminatory and transparent conditions, and to offer multi-territorial licences also in areas other than those referred to in Title III of this Directive.
- (12) This Directive, while applying to all collective management organisations, with the exception of Title III, which applies only to collective management organisations managing authors' rights in musical works for online use on a multi-territorial basis, does not interfere with arrangements concerning the management of rights in the Member States such as individual management, the extended effect of an agreement between a representative collective management organisation and a user, i.e. extended collective licensing, mandatory collective management, legal presumptions of representation and transfer of rights to collective management organisations.
- (13) This Directive does not affect the possibility for Member States to determine by law, by regulation or by any other specific mechanism to that effect, rightholders' fair compensation for exceptions or limitations to the reproduction right provided for in Directive 2001/29/EC of the European Parliament and of the Council ⁽²⁾ and rightholders' remuneration for derogations from the exclusive right in respect of public lending provided for in Directive 2006/115/EC of the European Parliament and of the Council ⁽³⁾ applicable in their territory as well as the conditions applicable for their collection.
- (14) This Directive does not require collective management organisations to adopt a specific legal form. In practice, those organisations operate in various legal forms such as associations, cooperatives or limited liability companies, which are controlled or owned by holders of copyright and related rights or by entities representing such rightholders. In some exceptional cases, however, due to the legal form of a collective management organisation, the element of ownership or control is not present. This is, for example, the case for foundations, which do not have members. None the less, the provisions of this Directive

⁽¹⁾ Commission Recommendation 2005/737/EC of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services (OJ L 276, 21.10.2005, p. 54).

⁽²⁾ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10).

⁽³⁾ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28).

should also apply to those organisations. Similarly, Member States should take appropriate measures to prevent the circumvention of the obligations under this Directive through the choice of legal form. It should be noted that entities which represent rightholders, and which are members of collective management organisations, may be other collective management organisations, associations of rightholders, unions or other organisations.

- (15) Rightholders should be free to entrust the management of their rights to independent management entities. Such independent management entities are commercial entities which differ from collective management organisations, inter alia, because they are not owned or controlled by rightholders. However, to the extent that such independent management entities carry out the same activities as collective management organisations, they should be obliged to provide certain information to the rightholders they represent, collective management organisations, users and the public.
- (16) Audiovisual producers, record producers and broadcasters license their own rights, in certain cases alongside rights that have been transferred to them by, for instance, performers, on the basis of individually negotiated agreements, and act in their own interest. Book, music or newspaper publishers license rights that have been transferred to them on the basis of individually negotiated agreements and act in their own interest. Therefore audiovisual producers, record producers, broadcasters and publishers should not be regarded as 'independent management entities'. Furthermore, authors' and performers' managers and agents acting as intermediaries and representing rightholders in their relations with collective management organisations should not be regarded as 'independent management entities' since they do not manage rights in the sense of setting tariffs, granting licences or collecting money from users.
- (17) Collective management organisations should be free to choose to have certain of their activities, such as the invoicing of users or the distribution of amounts due to rightholders, carried out by subsidiaries or by other entities that they control. In such cases, those provisions of this Directive that would be applicable if the relevant activity were carried out directly by a collective management organisation should be applicable to the activities of the subsidiaries or other entities.
- (18) In order to ensure that holders of copyright and related rights can benefit fully from the internal market when their rights are being managed collectively and that their freedom to exercise their rights is not unduly affected, it is necessary to provide for the inclusion of appropriate safeguards in the statute of collective management

organisations. Moreover, a collective management organisation should not, when providing its management services, discriminate directly or indirectly between rightholders on the basis of their nationality, place of residence or place of establishment.

- (19) Having regard to the freedoms established in the TFEU, collective management of copyright and related rights should entail a rightholder being able freely to choose a collective management organisation for the management of his rights, whether those rights be rights of communication to the public or reproduction rights, or categories of rights related to forms of exploitation such as broadcasting, theatrical exhibition or reproduction for online distribution, provided that the collective management organisation that the rightholder wishes to choose already manages such rights or categories of rights.

The rights, categories of rights or types of works and other subject-matter managed by the collective management organisation should be determined by the general assembly of members of that organisation if they are not already determined in its statute or prescribed by law. It is important that the rights and categories of rights be determined in a manner that maintains a balance between the freedom of rightholders to dispose of their works and other subject-matter and the ability of the organisation to manage the rights effectively, taking into account in particular the category of rights managed by the organisation and the creative sector in which it operates. Taking due account of that balance, rightholders should be able easily to withdraw such rights or categories of rights from a collective management organisation and to manage those rights individually or to entrust or transfer the management of all or part of them to another collective management organisation or another entity, irrespective of the Member State of nationality, residence or establishment of the collective management organisation, the other entity or the rightholder. Where a Member State, in compliance with Union law and the international obligations of the Union and its Member States, provides for mandatory collective management of rights, rightholders' choice would be limited to other collective management organisations.

Collective management organisations managing different types of works and other subject-matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject-matter. As far as non-commercial uses are concerned, Member States should provide that collective management organisations take the necessary steps to ensure that their rightholders can exercise the right to grant licences for such uses. Such steps should include, inter alia, a decision by the collective management organisation on the conditions attached to the exercise of that right as well as the

provision to their members of information on those conditions. Collective management organisations should inform rightholders of their choices and allow them to exercise the rights related to those choices as easily as possible. Rightholders who have already authorised the collective management organisation may be informed via the website of the organisation. A requirement for the consent of rightholders in the authorisation to the management of each right, category of rights or type of works and other subject-matter should not prevent the rightholders from accepting proposed subsequent amendments to that authorisation by tacit agreement in accordance with the conditions set out in national law. Neither contractual arrangements according to which a termination or withdrawal by rightholders has an immediate effect on licences granted prior to such termination or withdrawal, nor contractual arrangements according to which such licences remain unaffected for a certain period of time after such termination or withdrawal, are, as such, precluded by this Directive. Such arrangements should not, however, create an obstacle to the full application of this Directive. This Directive should not prejudice the possibility for rightholders to manage their rights individually, including for non-commercial uses.

- (20) Membership of collective management organisations should be based on objective, transparent and non-discriminatory criteria, including as regards publishers who by virtue of an agreement on the exploitation of rights are entitled to a share of the income from the rights managed by collective management organisations and to collect such income from the collective management organisations. Those criteria should not oblige collective management organisations to accept members the management of whose rights, categories of rights or types of works or other subject-matter falls outside their scope of activity. The records kept by a collective management organisation should allow for the identification and location of its members and rightholders whose rights the organisation represents on the basis of authorisations given by those rightholders.
- (21) In order to protect those rightholders whose rights are directly represented by the collective management organisation but who do not fulfil its membership requirements, it is appropriate to require that certain provisions of this Directive relating to members be also applied to such rightholders. Member States should be able also to provide such rightholders with rights to participate in the decision-making process of the collective management organisation.
- (22) Collective management organisations should act in the best collective interests of the rightholders they represent. It is therefore important to provide for systems which

enable the members of a collective management organisation to exercise their membership rights by participating in the organisation's decision-making process. Some collective management organisations have different categories of members, which may represent different types of rightholders, such as producers and performers. The representation in the decision-making process of those different categories of members should be fair and balanced. The effectiveness of the rules on the general assembly of members of collective management organisations would be undermined if there were no provisions on how the general assembly should be run. Thus, it is necessary to ensure that the general assembly is convened regularly, and at least annually, and that the most important decisions in the collective management organisation are taken by the general assembly.

- (23) All members of collective management organisations should be allowed to participate and vote in the general assembly of members. The exercise of those rights should be subject only to fair and proportionate restrictions. In some exceptional cases, collective management organisations are established in the legal form of a foundation, and thus have no members. In such cases, the powers of the general assembly of members should be exercised by the body entrusted with the supervisory function. Where collective management organisations have entities representing rightholders as their members, as may be the case where a collective management organisation is a limited liability company and its members are associations of rightholders, Member States should be able to provide that some or all powers of the general assembly of members are to be exercised by an assembly of those rightholders. The general assembly of members should, at least, have the power to set the framework of the activities of the management, in particular with respect to the use of rights revenue by the collective management organisation. This should, however, be without prejudice to the possibility for Member States to provide for more stringent rules on, for example, investments, mergers or taking out loans, including a prohibition on any such transactions. Collective management organisations should encourage the active participation of their members in the general assembly. The exercise of voting rights should be facilitated for members who attend the general assembly and also for those who do not. In addition to being able to exercise their rights by electronic means, members should be allowed to participate and vote in the general assembly of members through a proxy. Proxy voting should be restricted in cases of conflicts of interest. At the same time, Member States should provide for restrictions as regards proxies only if this does not prejudice the appropriate and effective participation of members in the decision-making process. In particular, the appointment of proxy-holders contributes to the appropriate and effective participation of members in the decision-making process and allows rightholders to have a true opportunity to opt for a collective management organisation of their choice, irrespective of the Member State of establishment of the organisation.

- (24) Members should be allowed to participate in the continuous monitoring of the management of collective management organisations. To that end, those organisations should have a supervisory function appropriate to their organisational structure and should allow members to be represented in the body that exercises that function. Depending on the organisational structure of the collective management organisation, the supervisory function may be exercised by a separate body, such as a supervisory board, or by some or all of the directors in the administrative board who do not manage the business of the collective management organisation. The requirement of fair and balanced representation of members should not prevent the collective management organisation from appointing third parties to exercise the supervisory function, including persons with relevant professional expertise and rightholders who do not fulfil the membership requirements or who are represented by the organisation not directly but via an entity which is a member of the collective management organisation.
- (25) For reasons of sound management, the management of a collective management organisation must be independent. Managers, whether elected as directors or hired or employed by the organisation on the basis of a contract, should be required to declare, prior to taking up their position and thereafter on a yearly basis, whether there are conflicts between their interests and those of the rightholders that are represented by the collective management organisation. Such annual statements should be also made by persons exercising the supervisory function. Member States should be free to require collective management organisations to make such statements public or to submit them to public authorities.
- (26) Collective management organisations collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. That revenue is ultimately due to rightholders, who may have a direct legal relationship with the organisation, or may be represented via an entity which is a member of the collective management organisation or via a representation agreement. It is therefore important that a collective management organisation exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where the collective management organisation maintains proper records of membership, licences and use of works and other subject-matter. Relevant data that are required for the efficient collective management of rights should also be provided by rightholders and users and verified by the collective management organisation.
- (27) Amounts collected and due to rightholders should be kept separately in the accounts from any own assets the organisation may have. Without prejudice to the possibility for Member States to provide for more stringent rules on investment, including a prohibition of investment of the rights revenue, where such amounts are invested, this should be carried out in accordance with the general investment and risk management policy of the collective management organisation. In order to maintain a high level of protection of the rights of rightholders and to ensure that any income that may arise from the exploitation of such rights accrues to their benefit, the investments made and held by the collective management organisation should be managed in accordance with criteria which would oblige the organisation to act prudently, while allowing it to decide on the most secure and efficient investment policy. This should allow the collective management organisation to opt for an asset allocation that suits the precise nature and duration of any exposure to risk of any rights revenue invested and does not unduly prejudice any rights revenue owed to rightholders.
- (28) Since rightholders are entitled to be remunerated for the exploitation of their rights, it is important that management fees do not exceed justified costs of the management of the rights and that any deduction other than in respect of management fees, for example a deduction for social, cultural or educational purposes, should be decided by the members of the collective management organisation. The collective management organisations should be transparent towards rightholders regarding the rules governing such deductions. The same requirements should apply to any decision to use the rights revenue for collective distribution, such as scholarships. Rightholders should have access, on a non-discriminatory basis, to any social, cultural or educational service funded through such deductions. This Directive should not affect deductions under national law, such as deductions for the provision of social services by collective management organisations to rightholders, as regards any aspects that are not regulated by this Directive, provided that such deductions are in compliance with Union law.
- (29) The distribution and payment of amounts due to individual rightholders or, as the case may be, to categories of rightholders, should be carried out in a timely manner and in accordance with the general policy on distribution of the collective management organisation concerned, including when they are performed via another entity representing the rightholders. Only objective reasons beyond the control of a collective management organisation can justify delay in the distribution and payment of amounts due to rightholders. Therefore, circumstances such as the rights revenue having been invested subject to a maturity date should not qualify as valid reasons for such a delay. It is appropriate to leave it to Member States to decide on rules ensuring timely distribution and the effective search for, and identification of, rightholders in cases where such objective reasons occur. In order to ensure that the amounts due to rightholders

are appropriately and effectively distributed, without prejudice to the possibility for Member States to provide for more stringent rules, it is necessary to require collective management organisations to take reasonable and diligent measures, on the basis of good faith, to identify and locate the relevant rightholders. It is also appropriate that members of a collective management organisation, to the extent allowed for under national law, should decide on the use of any amounts that cannot be distributed in situations where rightholders entitled to those amounts cannot be identified or located.

(30) Collective management organisations should be able to manage rights and collect revenue from their exploitation under representation agreements with other organisations. To protect the rights of the members of the other collective management organisation, a collective management organisation should not distinguish between the rights it manages under representation agreements and those it manages directly for its rightholders. Nor should the collective management organisation be allowed to apply deductions to the rights revenue collected on behalf of another collective management organisation, other than deductions in respect of management fees, without the express consent of the other organisation. It is also appropriate to require collective management organisations to distribute and make payments to other organisations on the basis of such representation agreements no later than when they distribute and make payments to their own members and to non-member rightholders whom they represent. Furthermore, the recipient organisation should in turn be required to distribute the amounts due to the rightholders it represents without delay.

(31) Fair and non-discriminatory commercial terms in licensing are particularly important to ensure that users can obtain licences for works and other subject-matter in respect of which a collective management organisation represents rights, and to ensure the appropriate remuneration of rightholders. Collective management organisations and users should therefore conduct licensing negotiations in good faith and apply tariffs which should be determined on the basis of objective and non-discriminatory criteria. It is appropriate to require that the licence fee or remuneration determined by collective management organisations be reasonable in relation to, *inter alia*, the economic value of the use of the rights in a particular context. Finally, collective management organisations should respond without undue delay to users' requests for licences.

(32) In the digital environment, collective management organisations are regularly required to license their repertoire for totally new forms of exploitation and business models. In such cases, and in order to foster

an environment conducive to the development of such licences, without prejudice to the application of competition law rules, collective management organisations should have the flexibility required to provide, as swiftly as possible, individualised licences for innovative online services, without the risk that the terms of those licences could be used as a precedent for determining the terms for other licences.

(33) In order to ensure that collective management organisations can comply with the obligations set out in this Directive, users should provide those organisations with relevant information on the use of the rights represented by the collective management organisations. This obligation should not apply to natural persons acting for purposes outside their trade, business, craft or profession, who therefore fall outside the definition of user as laid down in this Directive. Moreover, the information required by collective management organisations should be limited to what is reasonable, necessary and at the users' disposal in order to enable such organisations to perform their functions, taking into account the specific situation of small and medium-sized enterprises. That obligation could be included in an agreement between a collective management organisation and a user; this does not preclude national statutory rights to information. The deadlines applicable to the provision of information by users should be such as to allow collective management organisations to meet the deadlines set for the distribution of amounts due to rightholders. This Directive should be without prejudice to the possibility for Member States to require collective management organisations established in their territory to issue joint invoices.

(34) In order to enhance the trust of rightholders, users and other collective management organisations in the management of rights by collective management organisations, each collective management organisation should comply with specific transparency requirements. Each collective management organisation or its member being an entity responsible for attribution or payment of amounts due to rightholders should therefore be required to provide certain information to individual rightholders at least once a year, such as the amounts attributed or paid to them and the deductions made. Collective management organisations should also be required to provide sufficient information, including financial information, to the other collective management organisations whose rights they manage under representation agreements.

(35) In order to ensure that rightholders, other collective management organisations and users have access to information on the scope of activity of the organisation and the works or other subject-matter that it represents, a collective management organisation should provide

information on those issues in response to a duly justified request. The question whether, and to what extent, reasonable fees can be charged for providing this service should be left to national law. Each collective management organisation should also make public information on its structure and on the way in which it carries out its activities, including in particular its statutes and general policies on management fees, deductions and tariffs.

complexity and difficulty associated with the collective management of rights in Europe has, in a number of cases, exacerbated the fragmentation of the European digital market for online music services. This situation is in stark contrast to the rapidly growing demand on the part of consumers for access to digital content and associated innovative services, including across national borders.

- (36) In order to ensure that rightholders are in a position to monitor and compare the respective performances of collective management organisations, such organisations should make public an annual transparency report comprising comparable audited financial information specific to their activities. Collective management organisations should also make public an annual special report, forming part of the annual transparency report, on the use of amounts dedicated to social, cultural and educational services. This Directive should not prevent a collective management organisation from publishing the information required by the annual transparency report in a single document, for example as part of its annual financial statements, or in separate reports.
- (37) Providers of online services which make use of musical works, such as music services that allow consumers to download music or to listen to it in streaming mode, as well as other services providing access to films or games where music is an important element, must first obtain the right to use such works. Directive 2001/29/EC requires that a licence be obtained for each of the rights in the online exploitation of musical works. In respect of authors, those rights are the exclusive right of reproduction and the exclusive right of communication to the public of musical works, which includes the right of making available. Those rights may be managed by the individual rightholders themselves, such as authors or music publishers, or by collective management organisations that provide collective management services to rightholders. Different collective management organisations may manage authors' rights of reproduction and communication to the public. Furthermore, there are cases where several rightholders have rights in the same work and may have authorised different organisations to license their respective shares of rights in the work. Any user wishing to provide an online service offering a wide choice of musical works to consumers needs to aggregate rights in works from different rightholders and collective management organisations.
- (38) While the internet knows no borders, the online market for music services in the Union is still fragmented, and a digital single market has not yet been fully achieved. The
- (39) Commission Recommendation 2005/737/EC promoted a new regulatory environment better suited to the management, at Union level, of copyright and related rights for the provision of legitimate online music services. It recognised that, in an era of online exploitation of musical works, commercial users need a licensing policy that corresponds to the ubiquity of the online environment and is multi-territorial. However, the Recommendation has not been sufficient to encourage the widespread multi-territorial licensing of online rights in musical works or to address the specific demands of multi-territorial licensing.
- (40) In the online music sector, where collective management of authors' rights on a territorial basis remains the norm, it is essential to create conditions conducive to the most effective licensing practices by collective management organisations in an increasingly cross-border context. It is therefore appropriate to provide a set of rules prescribing basic conditions for the provision by collective management organisations of multi-territorial collective licensing of authors' rights in musical works for online use, including lyrics. The same rules should apply to such licensing for all musical works, including musical works incorporated in audiovisual works. However, online services solely providing access to musical works in sheet music form should not be covered. The provisions of this Directive should ensure the necessary minimum quality of cross-border services provided by collective management organisations, notably in terms of transparency of repertoire represented and accuracy of financial flows related to the use of the rights. They should also set out a framework for facilitating the voluntary aggregation of music repertoire and rights, thus reducing the number of licences a user needs to operate a multi-territory, multi-repertoire service. Those provisions should enable a collective management organisation to request another organisation to represent its repertoire on a multi-territorial basis where it cannot or does not wish to fulfil the requirements itself. There should be an obligation on the requested organisation, provided that it already aggregates repertoire and offers or grants multi-territorial licences, to accept the mandate of the requesting organisation. The development of legal online music services across the Union should also contribute to the fight against online infringements of copyright.

- (41) The availability of accurate and comprehensive information on musical works, rightholders and the rights that each collective management organisation is authorised to represent in a given territory is of particular importance for an effective and transparent licensing process, for the subsequent processing of the users' reports and the related invoicing of service providers, and for the distribution of amounts due. For that reason, collective management organisations granting multi-territorial licences for musical works should be able to process such detailed data quickly and accurately. This requires the use of databases on ownership of rights that are licensed on a multi-territorial basis, containing data that allow for the identification of works, rights and rightholders that a collective management organisation is authorised to represent and of the territories covered by the authorisation. Any changes to that information should be taken into account without undue delay and the databases should be continually updated. Those databases should also help to match information on works with information on phonograms or any other fixation in which the work has been incorporated. It is also important to ensure that prospective users and rightholders, as well as collective management organisations, have access to the information they need in order to identify the repertoire that those organisations are representing. Collective management organisations should be able to take measures to protect the accuracy and integrity of the data, to control their reuse or to protect commercially sensitive information.
- (42) In order to ensure that the data on the music repertoire they process are as accurate as possible, collective management organisations granting multi-territorial licences in musical works should be required to update their databases continuously and without delay as necessary. They should establish easily accessible procedures to enable online service providers, as well as rightholders and other collective management organisations, to inform them of any inaccuracy that the organisations' databases may contain in respect of works they own or control, including rights — in whole or in part — and territories for which they have mandated the relevant collective management organisation to act, without however jeopardising the veracity and integrity of the data held by the collective management organisation. Since Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾ grants to every data subject the right to obtain rectification, erasure or blocking of inaccurate or incomplete data, this Directive should also ensure that inaccurate information regarding rightholders or other collective management organisations in the case of multi-territorial licences is to be corrected without undue delay. Collective management organisations should also have the capacity to process electronically the registration of works and authorisations to manage rights. Given the importance of information automation for the fast and effective processing of data, collective management organisations should provide for the use of electronic means for the structured communication of that information by rightholders. Collective management organisations should, as far as possible, ensure that such electronic means take into account the relevant voluntary industry standards or practices developed at international or Union level.
- (43) Industry standards for music use, sales reporting and invoicing are instrumental in improving efficiency in the exchange of data between collective management organisations and users. Monitoring the use of licences should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data. In order to ensure that these efficiency gains result in faster financial processing and ultimately in earlier payments to rightholders, collective management organisations should be required to invoice service providers and to distribute amounts due to rightholders without delay. For this requirement to be effective, it is necessary that users provide collective management organisations with accurate and timely reports on the use of works. Collective management organisations should not be required to accept users' reports in proprietary formats when widely used industry standards are available. Collective management organisations should not be prevented from outsourcing services relating to the granting of multi-territorial licences for online rights in musical works. Sharing or consolidation of back-office capabilities should help the organisations to improve management services and rationalise investments in data management tools.
- (44) Aggregating different music repertoires for multi-territorial licensing facilitates the licensing process and, by making all repertoires accessible to the market for multi-territorial licensing, enhances cultural diversity and contributes to reducing the number of transactions an online service provider needs in order to offer services. This aggregation of repertoires should facilitate the development of new online services, and should also result in a reduction of transaction costs being passed on to consumers. Therefore, collective management organisations that are not willing or not able to grant multi-territorial licences directly in their own music repertoire should be encouraged on a voluntary basis to mandate other collective management organisations to manage their repertoire on a non-discriminatory basis. Exclusivity in agreements on multi-territorial licences would restrict the choices available to users seeking multi-territorial licences and also restrict the choices available to collective management organisations seeking administration services for their repertoire on a multi-territorial
- ⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

basis. Therefore, all representation agreements between collective management organisations providing for multi-territorial licensing should be concluded on a non-exclusive basis.

(45) The transparency of the conditions under which collective management organisations manage online rights is of particular importance to members of collective management organisations. Collective management organisations should therefore provide sufficient information to their members on the main terms of any agreement mandating any other collective management organisation to represent those members' online music rights for the purposes of multi-territorial licensing.

(46) It is also important to require any collective management organisations that offer or grant multi-territorial licences to agree to represent the repertoire of any collective management organisations that decide not to do so directly. To ensure that this requirement is not disproportionate and does not go beyond what is necessary, the requested collective management organisation should only be required to accept the representation if the request is limited to the online right or categories of online rights that it represents itself. Moreover, this requirement should only apply to collective management organisations which aggregate repertoire and should not extend to collective management organisations which provide multi-territorial licences for their own repertoire only. Nor should it apply to collective management organisations which merely aggregate rights in the same works for the purpose of being able to license jointly both the right of reproduction and the right of communication to the public in respect of such works. To protect the interests of the rightholders of the mandating collective management organisation and to ensure that small and less well-known repertoires in Member States can access the internal market on equal terms, it is important that the repertoire of the mandating collective management organisation be managed on the same conditions as the repertoire of the mandated collective management organisation and that it is included in offers addressed by the mandated collective management organisation to online service providers. The management fee charged by the mandated collective management organisation should allow that organisation to recoup the necessary and reasonable investments incurred. Any agreement whereby a collective management organisation mandates another organisation or organisations to grant multi-territorial licences in its own music repertoire for online use should not prevent the first-mentioned collective management organisation from continuing to grant licences limited to the territory of the Member State where that organisation is established, in its own repertoire and in any other repertoire it may be authorised to represent in that territory.

(47) The objectives and effectiveness of the rules on multi-territorial licensing by collective management organisations would be significantly jeopardised if rightholders

were not able to exercise such rights in respect of multi-territorial licences when the collective management organisation to which they have granted their rights did not grant or offer multi-territorial licences and furthermore did not want to mandate another collective management organisation to do so. For this reason, it would be important in such circumstances to enable rightholders to exercise the right to grant the multi-territorial licences required by online service providers themselves or through another party or parties, by withdrawing from their original collective management organisation their rights to the extent necessary for multi-territorial licensing for online uses, and to leave the same rights with their original organisation for the purposes of mono-territorial licensing.

(48) Broadcasting organisations generally rely on a licence from a local collective management organisation for their own broadcasts of television and radio programmes which include musical works. That licence is often limited to broadcasting activities. A licence for online rights in musical works would be required in order to allow such television or radio broadcasts to be also available online. To facilitate the licensing of online rights in musical works for the purposes of simultaneous and delayed transmission online of television and radio broadcasts, it is necessary to provide for a derogation from the rules that would otherwise apply to the multi-territorial licensing of online rights in musical works. Such a derogation should be limited to what is necessary in order to allow access to television or radio programmes online and to material having a clear and subordinate relationship to the original broadcast produced for purposes such as supplementing, previewing or reviewing the television or radio programme concerned. That derogation should not operate so as to distort competition with other services which give consumers access to individual musical or audiovisual works online, nor lead to restrictive practices, such as market or customer sharing, which would be in breach of Article 101 or 102 TFEU.

(49) It is necessary to ensure the effective enforcement of the provisions of national law adopted pursuant to this Directive. Collective management organisations should offer their members specific procedures for handling complaints. Those procedures should also be made available to other rightholders directly represented by the organisation and to other collective management organisations on whose behalf it manages rights under a representation agreement. Furthermore, Member States should be able to provide that disputes between collective management organisations, their members, rightholders or users as to the application of this Directive can be submitted to a rapid, independent and impartial alternative dispute resolution procedure. In particular, the effectiveness of the rules on multi-territorial licensing of online rights in musical works could be undermined if disputes between collective management organisations and other parties were not

resolved quickly and efficiently. As a result, it is appropriate to provide, without prejudice to the right of access to a tribunal, for the possibility of easily accessible, efficient and impartial out-of-court procedures, such as mediation or arbitration, for resolving conflicts between, on the one hand, collective management organisations granting multi-territorial licences and, on the other, online service providers, rightholders or other collective management organisations. This Directive neither prescribes a specific manner in which such alternative dispute resolution should be organised, nor determines which body should carry it out, provided that its independence, impartiality and efficiency are guaranteed. Finally, it is also appropriate to require that Member States have independent, impartial and effective dispute resolution procedures, via bodies possessing expertise in intellectual property law or via courts, suitable for settling commercial disputes between collective management organisations and users on existing or proposed licensing conditions or on a breach of contract.

- (50) Member States should establish appropriate procedures by means of which it will be possible to monitor compliance by collective management organisations with this Directive. While it is not appropriate for this Directive to restrict the choice of Member States as to competent authorities, nor as regards the *ex-ante* or *ex-post* nature of the control over collective management organisations, it should be ensured that such authorities are capable of addressing in an effective and timely manner any concern that may arise in the application of this Directive. Member States should not be obliged to set up new competent authorities. Moreover, it should also be possible for members of a collective management organisation, rightholders, users, collective management organisations and other interested parties to notify a competent authority in respect of activities or circumstances which, in their opinion, constitute a breach of law by collective management organisations and, where relevant, users. Member States should ensure that competent authorities have the power to impose sanctions or measures where provisions of national law implementing this Directive are not complied with. This Directive does not provide for specific types of sanctions or measures, provided that they are effective, proportionate and dissuasive. Such sanctions or measures may include orders to dismiss directors who have acted negligently, inspections at the premises of a collective management organisation or, in cases where an authorisation is issued for an organisation to operate, the withdrawal of such authorisation. This Directive should remain neutral as regards the prior authorisation and supervision regimes in the Member States, including a requirement for the representativeness of the collective management organisation, in so far as those regimes are compatible with Union law and do not create an obstacle to the full application of this Directive.

- (51) In order to ensure that the requirements for multi-territorial licensing are complied with, specific provisions on the monitoring of their implementation should be laid down. The competent authorities of the Member States and the Commission should cooperate with each other to that end. Member States should provide each other with mutual assistance by way of exchange of information between their competent authorities in order to facilitate the monitoring of collective management organisations.
- (52) It is important for collective management organisations to respect the rights to private life and personal data protection of any rightholder, member, user and other individual whose personal data they process. Directive 95/46/EC governs the processing of personal data carried out in the Member States in the context of that Directive and under the supervision of the Member States' competent authorities, in particular the public independent authorities designated by the Member States. Rightholders should be given appropriate information about the processing of their data, the recipients of those data, time limits for the retention of such data in any database, and the way in which rightholders can exercise their rights to access, correct or delete their personal data concerning them in accordance with Directive 95/46/EC. In particular, unique identifiers which allow for the indirect identification of a person should be treated as personal data within the meaning of that Directive.
- (53) Provisions on enforcement measures should be without prejudice to the competencies of national independent public authorities established by the Member States pursuant to Directive 95/46/EC to monitor compliance with national provisions adopted in implementation of that Directive.
- (54) This Directive respects the fundamental rights and observes the principles enshrined in the Charter of Fundamental Rights of the European Union ('the Charter'). Provisions in this Directive relating to dispute resolution should not prevent parties from exercising their right of access to a tribunal as guaranteed in the Charter.

- (55) Since the objectives of this Directive, namely to improve the ability of their members to exercise control over the activities of collective management organisations, to guarantee sufficient transparency by collective management organisations and to improve the multi-territorial licensing of authors' rights in musical works for online use, cannot be sufficiently achieved by Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (56) The provisions of this Directive are without prejudice to the application of rules on competition, and any other relevant law in other areas including confidentiality, trade secrets, privacy, access to documents, the law of contract and private international law relating to the conflict of laws and the jurisdiction of courts, and workers' and employers' freedom of association and their right to organise.
- (57) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁽¹⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (58) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾ and delivered an opinion on 9 October 2012,

HAVE ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

Subject-matter

This Directive lays down requirements necessary to ensure the proper functioning of the management of copyright and related rights by collective management organisations. It also lays down requirements for multi-territorial licensing by collective management organisations of authors' rights in musical works for online use.

⁽¹⁾ OJ C 369, 17.12.2011, p. 14.

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Article 2

Scope

1. Titles I, II, IV and V with the exception of Article 34(2) and Article 38 apply to all collective management organisations established in the Union.
2. Title III and Article 34(2) and Article 38 apply to collective management organisations established in the Union managing authors' rights in musical works for online use on a multi-territorial basis.
3. The relevant provisions of this Directive apply to entities directly or indirectly owned or controlled, wholly or in part, by a collective management organisation, provided that such entities carry out an activity which, if carried out by the collective management organisation, would be subject to the provisions of this Directive.
4. Article 16(1), Articles 18 and 20, points (a), (b), (c), (e), (f) and (g) of Article 21(1) and Articles 36 and 42 apply to all independent management entities established in the Union.

Article 3

Definitions

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

- (a) 'collective management organisation' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which fulfils one or both of the following criteria:
 - (i) it is owned or controlled by its members;
 - (ii) it is organised on a not-for-profit basis;
- (b) 'independent management entity' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which is:
 - (i) neither owned nor controlled, directly or indirectly, wholly or in part, by rightholders; and
 - (ii) organised on a for-profit basis;
- (c) 'rightholder' means any person or entity, other than a collective management organisation, that holds a copyright or related right or, under an agreement for the exploitation of rights or by law, is entitled to a share of the rights revenue;

- (d) 'member' means a rightholder or an entity representing rightholders, including other collective management organisations and associations of rightholders, fulfilling the membership requirements of the collective management organisation and admitted by it;
- (e) 'statute' means the memorandum and articles of association, the statute, the rules or documents of constitution of a collective management organisation;
- (f) 'general assembly of members' means the body in the collective management organisation wherein members participate and exercise their voting rights, regardless of the legal form of the organisation;
- (g) 'director' means:
 - (i) where national law or the statute of the collective management organisation provides for a unitary board, any member of the administrative board;
 - (ii) where national law or the statute of the collective management organisation provides for a dual board, any member of the management board or the supervisory board;
- (h) 'rights revenue' means income collected by a collective management organisation on behalf of rightholders, whether deriving from an exclusive right, a right to remuneration or a right to compensation;
- (i) 'management fees' means the amounts charged, deducted or offset by a collective management organisation from rights revenue or from any income arising from the investment of rights revenue in order to cover the costs of its management of copyright or related rights;
- (j) 'representation agreement' means any agreement between collective management organisations whereby one collective management organisation mandates another collective management organisation to manage the rights it represents, including an agreement concluded under Articles 29 and 30;
- (k) 'user' means any person or entity that is carrying out acts subject to the authorisation of rightholders, remuneration of rightholders or payment of compensation to rightholders and is not acting in the capacity of a consumer;
- (l) 'repertoire' means the works in respect of which a collective management organisation manages rights;
- (m) 'multi-territorial licence' means a licence which covers the territory of more than one Member State;

- (n) 'online rights in musical works' means any of the rights of an author in a musical work provided for under Articles 2 and 3 of Directive 2001/29/EC which are required for the provision of an online service.

TITLE II

COLLECTIVE MANAGEMENT ORGANISATIONS

CHAPTER 1

Representation of rightholders and membership and organisation of collective management organisations

Article 4

General principles

Member States shall ensure that collective management organisations act in the best interests of the rightholders whose rights they represent and that they do not impose on them any obligations which are not objectively necessary for the protection of their rights and interests or for the effective management of their rights.

Article 5

Rights of rightholders

1. Member States shall ensure that rightholders have the rights laid down in paragraphs 2 to 8 and that those rights are set out in the statute or membership terms of the collective management organisation.

2. Rightholders shall have the right to authorise a collective management organisation of their choice to manage the rights, categories of rights or types of works and other subject-matter of their choice, for the territories of their choice, irrespective of the Member State of nationality, residence or establishment of either the collective management organisation or the rightholder. Unless the collective management organisation has objectively justified reasons to refuse management, it shall be obliged to manage such rights, categories of rights or types of works and other subject-matter, provided that their management falls within the scope of its activity.

3. Rightholders shall have the right to grant licences for non-commercial uses of any rights, categories of rights or types of works and other subject-matter that they may choose.

4. Rightholders shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject-matter granted by them to a collective management organisation or to withdraw from a collective management organisation any of the rights, categories of rights or types of works and other subject-matter of their choice, as determined pursuant to paragraph 2, for the territories of their choice, upon serving reasonable notice not exceeding six months. The collective management organisation may decide that such termination or withdrawal is to take effect only at the end of the financial year.

5. If there are amounts due to a rightholder for acts of exploitation which occurred before the termination of the authorisation or the withdrawal of rights took effect, or under a licence granted before such termination or withdrawal took effect, the rightholder shall retain his rights under Articles 12, 13, 18, 20, 28 and 33.

6. A collective management organisation shall not restrict the exercise of rights provided for under paragraphs 4 and 5 by requiring, as a condition for the exercise of those rights, that the management of rights or categories of rights or types of works and other subject-matter which are subject to the termination or the withdrawal be entrusted to another collective management organisation.

7. In cases where a rightholder authorises a collective management organisation to manage his rights, he shall give consent specifically for each right or category of rights or type of works and other subject-matter which he authorises the collective management organisation to manage. Any such consent shall be evidenced in documentary form.

8. A collective management organisation shall inform rightholders of their rights under paragraphs 1 to 7, as well as of any conditions attached to the right set out in paragraph 3, before obtaining their consent to its managing any right or category of rights or type of works and other subject-matter.

A collective management organisation shall inform those rightholders who have already authorised it of their rights under paragraphs 1 to 7, as well as of any conditions attached to the right set out in paragraph 3, by 10 October 2016.

Article 6

Membership rules of collective management organisations

1. Member States shall ensure that collective management organisations comply with the rules laid down in paragraphs 2 to 5.

2. A collective management organisation shall accept rightholders and entities representing rightholders, including other collective management organisations and associations of rightholders, as members if they fulfil the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria. Those membership requirements shall be included in the statute or membership terms of the collective management organisation and shall be made publicly available. In cases where a collective management organisation refuses to accept a request for membership, it shall provide the rightholder with a clear explanation of the reasons for its decision.

3. The statute of a collective management organisation shall provide for appropriate and effective mechanisms for the participation of its members in the organisation's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.

4. A collective management organisation shall allow its members to communicate with it by electronic means, including for the purposes of exercising members' rights.

5. A collective management organisation shall keep records of its members and shall regularly update those records.

Article 7

Rights of rightholders who are not members of the collective management organisation

1. Member States shall ensure that collective management organisations comply with the rules laid down in Article 6(4), Article 20, Article 29(2) and Article 33 in respect of rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with them but are not their members.

2. Member States may apply other provisions of this Directive to the rightholders referred to in paragraph 1.

Article 8

General assembly of members of the collective management organisation

1. Member States shall ensure that the general assembly of members is organised in accordance with the rules laid down in paragraphs 2 to 10.

2. A general assembly of members shall be convened at least once a year.

3. The general assembly of members shall decide on any amendments to the statute and to the membership terms of the collective management organisation, where those terms are not regulated by the statute.

4. The general assembly of members shall decide on the appointment or dismissal of the directors, review their general performance and approve their remuneration and other benefits such as monetary and non-monetary benefits, pension awards and entitlements, rights to other awards and rights to severance pay.

In a collective management organisation with a dual board system, the general assembly of members shall not decide on the appointment or dismissal of members of the management board or approve their remuneration and other benefits where the power to take such decisions is delegated to the supervisory board.

5. In accordance with the provisions laid down in Chapter 2 of Title II, the general assembly of members shall decide at least on the following issues:

- (a) the general policy on the distribution of amounts due to rightholders;
- (b) the general policy on the use of non-distributable amounts;
- (c) the general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
- (d) the general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
- (e) the use of non-distributable amounts;
- (f) the risk management policy;
- (g) the approval of any acquisition, sale or hypothecation of immovable property;
- (h) the approval of mergers and alliances, the setting-up of subsidiaries, and the acquisition of other entities or shares or rights in other entities;
- (i) the approval of taking out loans, granting loans or providing security for loans.

6. The general assembly of members may delegate the powers listed in points (f), (g), (h) and (i) of paragraph 5, by a resolution or by a provision in the statute, to the body exercising the supervisory function.

7. For the purposes of points (a) to (d) of paragraph 5, Member States may require the general assembly of members to determine more detailed conditions for the use of the rights revenue and the income arising from the investment of rights revenue.

8. The general assembly of members shall control the activities of the collective management organisation by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report referred to in Article 22.

Member States may allow alternative systems or modalities for the appointment and removal of the auditor, provided that

those systems or modalities are designed to ensure the independence of the auditor from the persons who manage the business of the collective management organisation.

9. All members of the collective management organisation shall have the right to participate in, and the right to vote at, the general assembly of members. However, Member States may allow for restrictions on the right of the members of the collective management organisation to participate in, and to exercise voting rights at, the general assembly of members, on the basis of one or both of the following criteria:

- (a) duration of membership;
- (b) amounts received or due to a member,

provided that such criteria are determined and applied in a manner that is fair and proportionate.

The criteria laid down in points (a) and (b) of the first subparagraph shall be included in the statute or the membership terms of the collective management organisation and shall be made publicly available in accordance with Articles 19 and 21.

10. Every member of a collective management organisation shall have the right to appoint any other person or entity as a proxy holder to participate in, and vote at, the general assembly of members on his behalf, provided that such appointment does not result in a conflict of interest which might occur, for example, where the appointing member and the proxy holder belong to different categories of rightholders within the collective management organisation.

However, Member States may provide for restrictions concerning the appointment of proxy holders and the exercise of the voting rights of the members they represent if such restrictions do not prejudice the appropriate and effective participation of members in the decision-making process of a collective management organisation.

Each proxy shall be valid for a single general assembly of members. The proxy holder shall enjoy the same rights in the general assembly of members as those to which the appointing member would be entitled. The proxy holder shall cast votes in accordance with the instructions issued by the appointing member.

11. Member States may decide that the powers of the general assembly of members may be exercised by an assembly of delegates elected at least every four years by the members of the collective management organisation, provided that:

- (a) appropriate and effective participation of members in the collective management organisation's decision-making process is ensured; and
- (b) the representation of the different categories of members in the assembly of delegates is fair and balanced.

The rules laid down in paragraphs 2 to 10 shall apply to the assembly of delegates *mutatis mutandis*.

12. Member States may decide that where a collective management organisation, by reason of its legal form, does not have a general assembly of members, the powers of that assembly are to be exercised by the body exercising the supervisory function. The rules laid down in paragraphs 2 to 5, 7 and 8 shall apply *mutatis mutandis* to such body exercising the supervisory function.

13. Member States may decide that where a collective management organisation has members who are entities representing rightholders, all or some of the powers of the general assembly of members are to be exercised by an assembly of those rightholders. The rules laid down in paragraphs 2 to 10 shall apply *mutatis mutandis* to the assembly of rightholders.

Article 9

Supervisory function

1. Member States shall ensure that each collective management organisation has in place a supervisory function for continuously monitoring the activities and the performance of the duties of the persons who manage the business of the organisation.
2. There shall be fair and balanced representation of the different categories of members of the collective management organisation in the body exercising the supervisory function.
3. Each person exercising the supervisory function shall make an annual individual statement on conflicts of interest, containing the information referred to in the second subparagraph of Article 10(2), to the general assembly of members.
4. The body exercising the supervisory function shall meet regularly and shall have at least the following powers:
 - (a) to exercise the powers delegated to it by the general assembly of members, including under Article 8(4) and (6);
 - (b) to monitor the activities and the performance of the duties of the persons referred to in Article 10, including the implementation of the decisions of the general assembly of members and, in particular, of the general policies listed in points (a) to (d) of Article 8(5).

5. The body exercising the supervisory function shall report on the exercise of its powers to the general assembly of members at least once a year.

Article 10

Obligations of the persons who manage the business of the collective management organisation

1. Member States shall ensure that each collective management organisation takes all necessary measures so that the persons who manage its business do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.
2. Member States shall ensure that collective management organisations put in place and apply procedures to avoid conflicts of interest, and where such conflicts cannot be avoided, to identify, manage, monitor and disclose actual or potential conflicts of interest in such a way as to prevent them from adversely affecting the collective interests of the rightholders whom the organisation represents.

The procedures referred to in the first subparagraph shall include an annual individual statement by each of the persons referred to in paragraph 1 to the general assembly of members, containing the following information:

- (a) any interests in the collective management organisation;
- (b) any remuneration received in the preceding financial year from the collective management organisation, including in the form of pension schemes, benefits in kind and other types of benefits;
- (c) any amounts received in the preceding financial year as a rightholder from the collective management organisation;
- (d) a declaration concerning any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any duty owed to any other natural or legal person.

CHAPTER 2

Management of rights revenue

Article 11

Collection and use of rights revenue

1. Member States shall ensure that collective management organisations comply with the rules laid down in paragraphs 2 to 5.

2. A collective management organisation shall be diligent in the collection and management of rights revenue.

3. A collective management organisation shall keep separate in its accounts:

(a) rights revenue and any income arising from the investment of rights revenue; and

(b) any own assets it may have and income arising from such assets, from management fees or from other activities.

4. A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders, except where it is allowed to deduct or offset its management fees in compliance with a decision taken in accordance with point (d) of Article 8(5) or to use the rights revenue or any income arising from the investment of rights revenue in compliance with a decision taken in accordance with Article 8(5).

5. Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the best interests of the rightholders whose rights it represents, in accordance with the general investment and risk management policy referred to in points (c) and (f) of Article 8(5) and having regard to the following rules:

(a) where there is any potential conflict of interest, the collective management organisation shall ensure that the investment is made in the sole interest of those rightholders;

(b) the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;

(c) the assets shall be properly diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

Article 12

Deductions

1. Member States shall ensure that where a rightholder authorises a collective management organisation to manage his rights, the collective management organisation is required to provide the rightholder with information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue, before obtaining his consent to its managing his rights.

2. Deductions shall be reasonable in relation to the services provided by the collective management organisation to rightholders, including, where appropriate, the services referred to in paragraph 4, and shall be established on the basis of objective criteria.

3. Management fees shall not exceed the justified and documented costs incurred by the collective management organisation in managing copyright and related rights.

Member States shall ensure that the requirements applicable to the use and the transparency of the use of amounts deducted or offset in respect of management fees apply to any other deductions made in order to cover the costs of managing copyright and related rights.

4. Where a collective management organisation provides social, cultural or educational services funded through deductions from rights revenue or from any income arising from the investment of rights revenue, such services shall be provided on the basis of fair criteria, in particular as regards access to, and the extent of, those services.

Article 13

Distribution of amounts due to rightholders

1. Without prejudice to Article 15(3) and Article 28, Member States shall ensure that each collective management organisation regularly, diligently and accurately distributes and pays amounts due to rightholders in accordance with the general policy on distribution referred to in point (a) of Article 8(5).

Member States shall also ensure that collective management organisations or their members who are entities representing rightholders distribute and pay those amounts to rightholders as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

2. Where the amounts due to rightholders cannot be distributed within the deadline set in paragraph 1 because the relevant rightholders cannot be identified or located and the exception to that deadline does not apply, those amounts shall be kept separate in the accounts of the collective management organisation.

3. The collective management organisation shall take all necessary measures, consistent with paragraph 1, to identify and locate the rightholders. In particular, at the latest three months after the expiry of the deadline set in paragraph 1, the collective management organisation shall make available information on works and other subject-matter for which one or more rightholders have not been identified or located to:

(a) the rightholders that it represents or the entities representing rightholders, where such entities are members of the collective management organisation; and

- (b) all collective management organisations with which it has concluded representation agreements.

The information referred to in the first subparagraph shall include, where available, the following:

- (a) the title of the work or other subject-matter;
- (b) the name of the rightholder;
- (c) the name of the relevant publisher or producer; and
- (d) any other relevant information available which could assist in identifying the rightholder.

The collective management organisation shall also verify the records referred to in Article 6(5) and other readily available records. If the abovementioned measures fail to produce results, the collective management organisation shall make that information available to the public at the latest one year after the expiry of the three-month period.

4. Where the amounts due to rightholders cannot be distributed after three years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in paragraph 3, those amounts shall be deemed non-distributable.

5. The general assembly of members of a collective management organisation shall decide on the use of the non-distributable amounts in accordance with point (b) of Article 8(5), without prejudice to the right of rightholders to claim such amounts from the collective management organisation in accordance with the laws of the Member States on the statute of limitations of claims.

6. Member States may limit or determine the permitted uses of non-distributable amounts, inter alia, by ensuring that such amounts are used in a separate and independent way in order to fund social, cultural and educational activities for the benefit of rightholders.

CHAPTER 3

Management of rights on behalf of other collective management organisations

Article 14

Rights managed under representation agreements

Member States shall ensure that a collective management organisation does not discriminate against any rightholder

whose rights it manages under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of amounts due to rightholders.

Article 15

Deductions and payments in representation agreements

1. Member States shall ensure that a collective management organisation does not make deductions, other than in respect of management fees, from the rights revenue derived from the rights it manages on the basis of a representation agreement, or from any income arising from the investment of that rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to such deductions.

2. The collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to other collective management organisations.

3. The collective management organisation shall carry out such distribution and payments to the other collective management organisation as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation from meeting that deadline.

The other collective management organisation, or, where it has as members entities representing rightholders, those members, shall distribute and pay the amounts due to rightholders as soon as possible but no later than six months from receipt of those amounts, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

CHAPTER 4

Relations with users

Article 16

Licensing

1. Member States shall ensure that collective management organisations and users conduct negotiations for the licensing of rights in good faith. Collective management organisations and users shall provide each other with all necessary information.

2. Licensing terms shall be based on objective and non-discriminatory criteria. When licensing rights, collective management organisations shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the Union for less than three years.

Rightholders shall receive appropriate remuneration for the use of their rights. Tariffs for exclusive rights and rights to remuneration shall be reasonable in relation to, inter alia, the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the work and other subject-matter, as well as in relation to the economic value of the service provided by the collective management organisation. Collective management organisations shall inform the user concerned of the criteria used for the setting of those tariffs.

3. Collective management organisations shall reply without undue delay to requests from users, indicating, inter alia, the information needed in order for the collective management organisation to offer a licence.

Upon receipt of all relevant information, the collective management organisation shall, without undue delay, either offer a licence or provide the user with a reasoned statement explaining why it does not intend to license a particular service.

4. A collective management organisation shall allow users to communicate with it by electronic means, including, where appropriate, for the purpose of reporting on the use of the licence.

Article 17

Users' obligations

Member States shall adopt provisions to ensure that users provide a collective management organisation, within an agreed or pre-established time and in an agreed or pre-established format, with such relevant information at their disposal on the use of the rights represented by the collective management organisation as is necessary for the collection of rights revenue and for the distribution and payment of amounts due to rightholders. When deciding on the format for the provision of such information, collective management organisations and users shall take into account, as far as possible, voluntary industry standards.

CHAPTER 5

Transparency and reporting

Article 18

Information provided to rightholders on the management of their rights

1. Without prejudice to paragraph 2 of this Article and Article 19 and Article 28(2), Member States shall ensure that

a collective management organisation makes available, not less than once a year, to each rightholder to whom it has attributed rights revenue or made payments in the period to which the information relates, at least the following information:

- (a) any contact details which the rightholder has authorised the collective management organisation to use in order to identify and locate the rightholder;
- (b) the rights revenue attributed to the rightholder;
- (c) the amounts paid by the collective management organisation to the rightholder per category of rights managed and per type of use;
- (d) the period during which the use took place for which amounts were attributed and paid to the rightholder, unless objective reasons relating to reporting by users prevent the collective management organisation from providing this information;
- (e) deductions made in respect of management fees;
- (f) deductions made for any purpose other than in respect of management fees, including those that may be required by national law for the provision of any social, cultural or educational services;
- (g) any rights revenue attributed to the rightholder which is outstanding for any period.

2. Where a collective management organisation attributes rights revenue and has as members entities which are responsible for the distribution of rights revenue to rightholders, the collective management organisation shall provide the information listed in paragraph 1 to those entities, provided that they do not have that information in their possession. Member States shall ensure that the entities make at least the information listed in paragraph 1 available, not less than once a year, to each rightholder to whom they have attributed rights revenue or made payments in the period to which the information relates.

Article 19

Information provided to other collective management organisations on the management of rights under representation agreements

Member States shall ensure that a collective management organisation makes at least the following information available, not less than once a year and by electronic means, to collective management organisations on whose behalf it manages rights under a representation agreement, for the period to which the information relates:

- (a) the rights revenue attributed, the amounts paid by the collective management organisation per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period;
- (b) deductions made in respect of management fees;
- (c) deductions made for any purpose other than in respect of management fees as referred to in Article 15;
- (d) information on any licences granted or refused with regard to works and other subject-matter covered by the representation agreement;
- (e) resolutions adopted by the general assembly of members in so far as those resolutions are relevant to the management of the rights under the representation agreement.
- (d) the list of the persons referred to in Article 10;
- (e) its general policy on distribution of amounts due to right-holders;
- (f) its general policy on management fees;
- (g) its general policy on deductions, other than in respect of management fees, from rights revenue and from any income arising from the investment of rights revenue, including deductions for the purposes of social, cultural and educational services;
- (h) a list of the representation agreements it has entered into, and the names of the collective management organisations with which those representation agreements have been concluded;
- (i) the general policy on the use of non-distributable amounts;

Article 20

Information provided to rightholders, other collective management organisations and users on request

Without prejudice to Article 25, Member States shall ensure that, in response to a duly justified request, a collective management organisation makes at least the following information available by electronic means and without undue delay to any collective management organisation on whose behalf it manages rights under a representation agreement or to any rightholder or to any user:

- (a) the works or other subject-matter it represents, the rights it manages, directly or under representation agreements, and the territories covered; or
- (b) where, due to the scope of activity of the collective management organisation, such works or other subject-matter cannot be determined, the types of works or of other subject-matter it represents, the rights it manages and the territories covered.

Article 21

Disclosure of information to the public

1. Member States shall ensure that a collective management organisation makes public at least the following information:

- (a) its statute;
- (b) its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
- (c) standard licensing contracts and standard applicable tariffs, including discounts;

- (j) the complaint handling and dispute resolution procedures available in accordance with Articles 33, 34 and 35.

2. The collective management organisation shall publish, and keep up to date, on its public website the information referred to in paragraph 1.

Article 22

Annual transparency report

1. Member States shall ensure that a collective management organisation, irrespective of its legal form under national law, draws up and makes public an annual transparency report, including the special report referred to in paragraph 3, for each financial year no later than eight months following the end of that financial year.

The collective management organisation shall publish on its website the annual transparency report, which shall remain available to the public on that website for at least five years.

2. The annual transparency report shall contain at least the information set out in the Annex.

3. A special report shall address the use of the amounts deducted for the purposes of social, cultural and educational services and shall contain at least the information set out in point 3 of the Annex.

4. The accounting information included in the annual transparency report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council⁽¹⁾.

⁽¹⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

The audit report, including any qualifications thereto, shall be reproduced in full in the annual transparency report.

For the purposes of this paragraph, accounting information shall comprise the financial statements referred to in point 1(a) of the Annex and any financial information referred to in points (g) and (h) of point 1 and in point 2 of the Annex.

TITLE III

MULTI-TERRITORIAL LICENSING OF ONLINE RIGHTS IN MUSICAL WORKS BY COLLECTIVE MANAGEMENT ORGANISATIONS

Article 23

Multi-territorial licensing in the internal market

Member States shall ensure that collective management organisations established in their territory comply with the requirements of this Title when granting multi-territorial licences for online rights in musical works.

Article 24

Capacity to process multi-territorial licences

1. Member States shall ensure that a collective management organisation which grants multi-territorial licences for online rights in musical works has sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licences, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

2. For the purposes of paragraph 1, a collective management organisation shall comply, at least, with the following conditions:

- (a) to have the ability to identify accurately the musical works, wholly or in part, which the collective management organisation is authorised to represent;
- (b) to have the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which the collective management organisation is authorised to represent;
- (c) to make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or Union level;
- (d) to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

Article 25

Transparency of multi-territorial repertoire information

1. Member States shall ensure that a collective management organisation which grants multi-territorial licences for online rights in musical works provides to online service providers, to rightholders whose rights it represents and to other collective management organisations, by electronic means, in response to a duly justified request, up-to-date information allowing the identification of the online music repertoire it represents. This shall include:

- (a) the musical works represented;
- (b) the rights represented wholly or in part; and
- (c) the territories covered.

2. The collective management organisation may take reasonable measures, where necessary, to protect the accuracy and integrity of the data, to control their reuse and to protect commercially sensitive information.

Article 26

Accuracy of multi-territorial repertoire information

1. Member States shall ensure that a collective management organisation which grants multi-territorial licences for online rights in musical works has in place arrangements to enable rightholders, other collective management organisations and online service providers to request a correction of the data referred to in the list of conditions under Article 24(2) or the information provided under Article 25, where such rightholders, collective management organisations and online service providers, on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collective management organisation shall ensure that the data or the information are corrected without undue delay.

2. The collective management organisation shall provide rightholders whose musical works are included in its own music repertoire and rightholders who have entrusted the management of their online rights in musical works to it in accordance with Article 31 with the means of submitting to it in electronic form information concerning their musical works, their rights in those works and the territories in respect of which the rightholders authorise the organisation. When doing so, the collective management organisation and the rightholders shall take into account, as far as possible, voluntary industry standards or practices regarding the exchange of data developed at international or Union level, allowing rightholders to specify the musical work, wholly or in part, the online rights, wholly or in part, and the territories in respect of which they authorise the organisation.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Articles 29 and 30, the mandated collective management organisation shall also apply paragraph 2 of this Article with respect to the rightholders whose musical works are included in the repertoire of the mandating collective management organisation, unless the collective management organisations agree otherwise.

Article 27

Accurate and timely reporting and invoicing

1. Member States shall ensure that a collective management organisation monitors the use of online rights in musical works which it represents, wholly or in part, by online service providers to which it has granted a multi-territorial licence for those rights.

2. The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online rights in musical works and online service providers shall accurately report the actual use of those works. The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the organisation allows for reporting using an industry standard for the electronic exchange of data.

3. The collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or Union level. The invoice shall identify the works and rights which are licensed, wholly or in part, on the basis of the data referred to in the list of conditions under Article 24(2), and the corresponding actual uses, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

4. The collective management organisation shall invoice the online service provider accurately and without delay after the actual use of the online rights in that musical work is reported, except where this is not possible for reasons attributable to the online service provider.

5. The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice, including when the online service provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

Article 28

Accurate and timely payment to rightholders

1. Without prejudice to paragraph 3, Member States shall ensure that a collective management organisation which grants multi-territorial licences for online rights in musical works distributes amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

2. Without prejudice to paragraph 3, the collective management organisation shall provide at least the following information to rightholders together with each payment it makes under paragraph 1:

- (a) the period during which the uses took place for which amounts are due to rightholders and the territories in which the uses took place;
- (b) the amounts collected, deductions made and amounts distributed by the collective management organisation for each online right in any musical work which rightholders have authorised the collective management organisation, wholly or in part, to represent;
- (c) the amounts collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of each online service provider.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Articles 29 and 30, the mandated collective management organisation shall distribute the amounts referred to in paragraph 1 accurately and without delay, and shall provide the information referred to in paragraph 2 to the mandating collective management organisation. The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to rightholders, unless the collective management organisations agree otherwise.

Article 29

Agreements between collective management organisations for multi-territorial licensing

1. Member States shall ensure that any representation agreement between collective management organisations whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works in its own music repertoire is of a non-exclusive nature. The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.

2. The mandating collective management organisation shall inform its members of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.

3. The mandated collective management organisation shall inform the mandating collective management organisation of the main terms according to which the latter's online rights are to be licensed, including the nature of the exploitation, all provisions which relate to or affect the licence fee, the duration of the licence, the accounting periods and the territories covered.

Article 30

Obligation to represent another collective management organisation for multi-territorial licensing

1. Member States shall ensure that where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent those rights, the requested collective management organisation is required to agree to such a request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.

2. The requested collective management organisation shall respond to the requesting collective management organisation in writing and without undue delay.

3. Without prejudice to paragraphs 5 and 6, the requested collective management organisation shall manage the represented repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire.

4. The requested collective management organisation shall include the represented repertoire of the requesting collective management organisation in all offers it addresses to online service providers.

5. The management fee for the service provided by the requested collective management organisation to the requesting organisation shall not exceed the costs reasonably incurred by the requested collective management organisation.

6. The requesting collective management organisation shall make available to the requested collective management organisation information relating to its own music repertoire required

for the provision of multi-territorial licences for online rights in musical works. Where information is insufficient or provided in a form that does not allow the requested collective management organisation to meet the requirements of this Title, the requested collective management organisation shall be entitled to charge for the costs reasonably incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

Article 31

Access to multi-territorial licensing

Member States shall ensure that where a collective management organisation does not grant or offer to grant multi-territorial licences for online rights in musical works or does not allow another collective management organisation to represent those rights for such purpose by 10 April 2017, rightholders who have authorised that collective management organisation to represent their online rights in musical works can withdraw from that collective management organisation the online rights in musical works for the purposes of multi-territorial licensing in respect of all territories without having to withdraw the online rights in musical works for the purposes of mono-territorial licensing, so as to grant multi-territorial licences for their online rights in musical works themselves or through any other party they authorise or through any collective management organisation complying with the provisions of this Title.

Article 32

Derogation for online music rights required for radio and television programmes

The requirements under this Title shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

TITLE IV

ENFORCEMENT MEASURES

Article 33

Complaints procedures

1. Member States shall ensure that collective management organisations make available to their members, and to collective management organisations on whose behalf they manage rights under a representation agreement, effective and timely procedures for dealing with complaints, particularly in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

2. Collective management organisations shall respond in writing to complaints by members or by collective management organisations on whose behalf they manage rights under a representation agreement. Where the collective management organisation rejects a complaint, it shall give reasons.

Article 34

Alternative dispute resolution procedures

1. Member States may provide that disputes between collective management organisations, members of collective management organisations, rightholders or users regarding the provisions of national law adopted pursuant to the requirements of this Directive can be submitted to a rapid, independent and impartial alternative dispute resolution procedure.

2. Member States shall ensure, for the purposes of Title III, that the following disputes relating to a collective management organisation established in their territory which grants or offers to grant multi-territorial licences for online rights in musical works can be submitted to an independent and impartial alternative dispute resolution procedure:

- (a) disputes with an actual or potential online service provider regarding the application of Articles 16, 25, 26 and 27;
- (b) disputes with one or more rightholders regarding the application of Articles 25, 26, 27, 28, 29, 30 and 31;
- (c) disputes with another collective management organisation regarding the application of Articles 25, 26, 27, 28, 29 and 30.

Article 35

Dispute resolution

1. Member States shall ensure that disputes between collective management organisations and users concerning, in particular, existing and proposed licensing conditions or a breach of contract can be submitted to a court, or if appropriate, to another independent and impartial dispute resolution body where that body has expertise in intellectual property law.

2. Articles 33 and 34 and paragraph 1 of this Article shall be without prejudice to the right of parties to assert and defend their rights by bringing an action before a court.

Article 36

Compliance

1. Member States shall ensure that compliance by collective management organisations established in their territory with the provisions of national law adopted pursuant to the requirements laid down in this Directive is monitored by competent authorities designated for that purpose.

2. Member States shall ensure that procedures exist enabling members of a collective management organisation, rightholders, users, collective management organisations and other interested

parties to notify the competent authorities designated for that purpose of activities or circumstances which, in their opinion, constitute a breach of the provisions of national law adopted pursuant to the requirements laid down in this Directive.

3. Member States shall ensure that the competent authorities designated for that purpose have the power to impose appropriate sanctions or to take appropriate measures where the provisions of national law adopted in implementation of this Directive have not been complied with. Those sanctions and measures shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of the competent authorities referred to in this Article and in Articles 37 and 38 by 10 April 2016. The Commission shall publish the information received in that regard.

Article 37

Exchange of information between competent authorities

1. In order to facilitate the monitoring of the application of this Directive, each Member State shall ensure that a request for information received from a competent authority of another Member State, designated for that purpose, concerning matters relevant to the application of this Directive, in particular with regard to the activities of collective management organisations established in the territory of the requested Member State, is responded to without undue delay by the competent authority designated for that purpose, provided that the request is duly justified.

2. Where a competent authority considers that a collective management organisation established in another Member State but acting within its territory may not be complying with the provisions of the national law of the Member State in which that collective management organisation is established which have been adopted pursuant to the requirements laid down in this Directive, it may transmit all relevant information to the competent authority of the Member State in which the collective management organisation is established, accompanied where appropriate by a request to that authority that it take appropriate action within its competence. The requested competent authority shall provide a reasoned reply within three months.

3. Matters as referred to in paragraph 2 may also be referred by the competent authority making such a request to the expert group established in accordance with Article 41.

Article 38

Cooperation for the development of multi-territorial licensing

1. The Commission shall foster a regular exchange of information between the competent authorities designated for that purpose in Member States, and between those authorities and the Commission, on the situation and development of multi-territorial licensing.

2. The Commission shall conduct regular consultations with representatives of rightholders, collective management organisations, users, consumers and other interested parties on their experience with the application of the provisions of Title III of this Directive. The Commission shall provide competent authorities with all relevant information that emerges from those consultations, within the framework of the exchange of information provided for in paragraph 1.

3. Member States shall ensure that by 10 October 2017, their competent authorities provide the Commission with a report on the situation and development of multi-territorial licensing in their territory. The report shall include information on, in particular, the availability of multi-territorial licences in the Member State concerned and compliance by collective management organisations with the provisions of national law adopted in implementation of Title III of this Directive, together with an assessment of the development of multi-territorial licensing of online rights in musical works by users, consumers, rightholders and other interested parties.

4. On the basis of the reports received pursuant to paragraph 3 and the information gathered pursuant to paragraphs 1 and 2, the Commission shall assess the application of Title III of this Directive. If necessary, and where appropriate on the basis of a specific report, it shall consider further steps to address any identified problems. That assessment shall cover, in particular, the following:

- (a) the number of collective management organisations meeting the requirements of Title III;
- (b) the application of Articles 29 and 30, including the number of representation agreements concluded by collective management organisations pursuant to those Articles;
- (c) the proportion of repertoire in the Member States which is available for licensing on a multi-territorial basis.

TITLE V

REPORTING AND FINAL PROVISIONS

Article 39

Notification of collective management organisations

By 10 April 2016, Member States shall provide the Commission, on the basis of the information at their disposal, with a list of the collective management organisations established in their territories.

Member States shall notify any changes to that list to the Commission without undue delay.

The Commission shall publish that information and keep it up to date.

Article 40

Report

By 10 April 2021, the Commission shall assess the application of this Directive and submit to the European Parliament and to

the Council a report on the application of this Directive. That report shall include an assessment of the impact of this Directive on the development of cross-border services, on cultural diversity, on the relations between collective management organisations and users and on the operation in the Union of collective management organisations established outside the Union, and, if necessary, on the need for a review. The Commission's report shall be accompanied, if appropriate, by a legislative proposal.

Article 41

Expert group

An expert group is hereby established. It shall be composed of representatives of the competent authorities of the Member States. The expert group shall be chaired by a representative of the Commission and shall meet either on the initiative of the chairman or at the request of the delegation of a Member State. The tasks of the group shall be as follows:

- (a) to examine the impact of the transposition of this Directive on the functioning of collective management organisations and independent management entities in the internal market, and to highlight any difficulties;
- (b) to organise consultations on all questions arising from the application of this Directive;
- (c) to facilitate the exchange of information on relevant developments in legislation and case-law, as well as relevant economic, social, cultural and technological developments, especially in relation to the digital market in works and other subject-matter.

Article 42

Protection of personal data

The processing of personal data carried out within the framework of this Directive shall be subject to Directive 95/46/EC.

Article 43

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 10 April 2016. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

*Article 44***Entry into force**

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

*Article 45***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 26 February 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX

1. Information to be provided in the annual transparency report referred to in Article 22(2):
 - (a) financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement;
 - (b) a report on the activities in the financial year;
 - (c) information on refusals to grant a licence pursuant to Article 16(3);
 - (d) a description of the legal and governance structure of the collective management organisation;
 - (e) information on any entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation;
 - (f) information on the total amount of remuneration paid to the persons referred in Article 9(3) and Article 10 in the previous year, and on other benefits granted to them;
 - (g) the financial information referred to in point 2 of this Annex;
 - (h) a special report on the use of any amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in point 3 of this Annex.
2. Financial information to be provided in the annual transparency report:
 - (a) financial information on rights revenue, per category of rights managed and per type of use (e.g. broadcasting, online, public performance), including information on the income arising from the investment of rights revenue and the use of such income (whether it is distributed to rightholders or other collective management organisations, or otherwise used);
 - (b) financial information on the cost of rights management and other services provided by the collective management organisation to rightholders, with a comprehensive description of at least the following items:
 - (i) all operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
 - (ii) operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs, only with regard to the management of rights, including management fees deducted from or offset against rights revenue or any income arising from the investment of rights revenue in accordance with Article 11(4) and Article 12(1), (2) and (3);
 - (iii) operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;
 - (iv) resources used to cover costs;
 - (v) deductions made from rights revenues, with a breakdown per category of rights managed and per type of use and the purpose of the deduction, such as costs relating to the management of rights or to social, cultural or educational services;
 - (vi) the percentages that the cost of the rights management and other services provided by the collective management organisation to rightholders represents compared to the rights revenue in the relevant financial year, per category of rights managed, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
 - (c) financial information on amounts due to rightholders, with a comprehensive description of at least the following items:
 - (i) the total amount attributed to rightholders, with a breakdown per category of rights managed and type of use;
 - (ii) the total amount paid to rightholders, with a breakdown per category of rights managed and type of use;
 - (iii) the frequency of payments, with a breakdown per category of rights managed and per type of use;

- (iv) the total amount collected but not yet attributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
 - (v) the total amount attributed to but not yet distributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
 - (vi) where a collective management organisation has not carried out the distribution and payments within the deadline set in Article 13(1), the reasons for the delay;
 - (vii) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put;
- (d) information on relationships with other collective management organisations, with a description of at least the following items:
- (i) amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
 - (ii) management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
 - (iii) management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown per category of rights and per organisation;
 - (iv) amounts distributed directly to rightholders originating from other collective management organisations, with a breakdown per category of rights and per organisation.
3. Information to be provided in the special report referred to in Article 22(3):
- (a) the amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of purpose and, for each type of purpose, with a breakdown per category of rights managed and per type of use;
 - (b) an explanation of the use of those amounts, with a breakdown per type of purpose including the costs of managing amounts deducted to fund social, cultural and educational services and of the separate amounts used for social, cultural and educational services.
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DECISIONS

COUNCIL DECISION No 136/2014/EU

of 20 February 2014

laying down rules and procedures to enable the participation of Greenland in the Kimberley Process certification scheme

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The European Union is a participant in the Kimberley Process certification scheme for the international trade in rough diamonds ('KP certification scheme'). As a participant it has to ensure that a certificate accompanies each shipment of rough diamonds imported into or exported from the territory of the Union.
- (2) Council Regulation (EC) No 2368/2002 ⁽²⁾ sets up a Union system of certification and import and export controls for rough diamonds for the purposes of implementing the KP certification scheme.
- (3) Greenland is not part of the Union territory but it is included in the list of overseas countries and territories set out in Annex II to the Treaty on the Functioning of the European Union (TFEU). In accordance with Article 198 TFEU, the purpose of the association of the overseas countries and territories with the Union is to promote the economic and social development of the overseas countries and territories and to establish close economic relations between them and the Union as a whole.
- (4) Denmark and Greenland have requested to enable the participation of Greenland in the KP certification scheme on rough diamonds through its cooperation with the Union. Such cooperation would strengthen economic relations between the Union and Greenland in the diamond industry, and in particular it would

enable Greenland to export rough diamonds accompanied by the EU Certificate issued for the purposes of the certification scheme, with a view to promoting the economic development of Greenland.

- (5) Trade in rough diamonds in Greenland should, therefore, be conducted in compliance with Union rules implementing the KP certification scheme for the international trade in rough diamonds. Accordingly, the scope of application of Regulation (EC) No 2368/2002 will be extended by Regulation (EU) No 257/2014 of the European Parliament and of the Council ⁽³⁾ to the territory of Greenland for the purpose of the certification scheme.
- (6) In particular, Greenland should only export rough diamonds to other participants in the KP certification scheme after they have been certified by a Union authority listed in Annex III to Regulation (EC) No 2368/2002. Imports of rough diamonds into Greenland should also be verified by the Union authorities.
- (7) In order to permit the international trade in rough diamonds in Greenland, in accordance with the rules on trade within the Union, Greenland should undertake to transpose the relevant provisions of Regulation (EC) No 2368/2002 into the national law of Greenland so as to allow the application of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

This Decision sets out the general rules and conditions for the participation of Greenland in the system of certification and import and export controls for rough diamonds set out in Regulation (EC) No 2368/2002. To that end, this Decision lays down rules and procedures for the application of the Kimberley Process certification scheme ('KP certification scheme') for rough diamonds imported into or exported from Greenland, either to the Union or to other participants in the KP certification scheme.

⁽¹⁾ Opinion of 4 February 2014 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ L 358, 31.12.2002, p. 28).

⁽³⁾ Regulation (EU) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation (EC) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme (see page 69 of this Official Journal).

Article 2

Definitions

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

- (a) the definition of 'Participant' means 'Participant' as set out in point (c) of Article 2 of Regulation (EC) No 2368/2002;
- (b) the definition of 'Union authority' means the 'Community authority' as set out in point (f) of Article 2 of Regulation (EC) No 2368/2002;
- (c) the definition of 'EU certificate' means the 'Community certificate' as set out in point (g) of Article 2 of Regulation (EC) No 2368/2002.

Article 3

General rules

1. Greenland shall ensure that Regulation (EC) No 2368/2002 is transposed in the legislative provisions applicable to Greenland as regards the conditions and formalities for importing and exporting rough diamonds, their transit through the Union from and to a participant other than the Union, the participation of the Union, including Greenland, in the KP certification scheme, obligations relating to due diligence, anti-circumvention, exchange of information, and ensuring compliance with such provisions.

2. Greenland shall designate the authorities responsible for implementing the relevant provisions of Regulation (EC) No 2368/2002 within its territory and communicate to the Commission the designation and the contact details of such authorities.

Article 4

Import into the Union of rough diamonds mined or extracted in Greenland

1. Rough diamonds mined or extracted in Greenland may be imported into the Union only where:

- (a) they are accompanied by the attesting document referred to in paragraph 2;
- (b) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (c) the attesting document referred to in paragraph 2 clearly identifies the consignment to which it refers;
- (d) the rough diamonds have not been previously exported to a participant other than the Union.

2. To allow rough diamonds mined or extracted in Greenland to be imported into the Union, the competent authority for Greenland listed in Annex II ('Greenland authority') shall upon request issue an attesting document conforming to the requirements set out in Annex I.

3. The Greenland authority shall deliver the attesting document to the applicant and shall keep a copy for three years for record-keeping purposes.

4. Acceptance of a customs declaration for release for free circulation pursuant to Council Regulation (EEC) No 2913/92⁽¹⁾ of rough diamonds referred to in paragraph 1 of this Article shall be subject to the verification by a Union authority listed in Annex III to Regulation (EC) No 2368/2002 of the attesting document issued in accordance with paragraph 2 of this Article. To this effect, containers of rough diamonds mined or extracted in Greenland shall, on import to the Union, be submitted without delay for verification to an appropriate Union authority.

5. If a Union authority establishes that the conditions in paragraph 1 are fulfilled, it shall confirm this on the original attesting document and provide the importer with an authenticated and forgery-resistant copy of that attesting document. This confirmation procedure shall take place within ten working days of the submission of the attesting document.

6. The Member State into which rough diamonds are imported from Greenland shall ensure their submission to the appropriate Union authority. The exporter shall be responsible for the proper movement of the rough diamonds and the costs thereof.

7. In case of doubts relating to the authenticity or correctness of an attesting document issued in accordance with paragraph 2, and in cases where further advice is required, the customs authorities shall contact the Greenland authority.

8. The Union authority shall keep the originals of attesting documents referred to in paragraph 2 submitted for verification for at least three years. It shall provide the Commission or persons or bodies designated by the Commission with access to those original attesting documents in particular with a view to answering questions raised within the framework of the KP certification scheme.

Article 5

Any subsequent imports of rough diamonds mined or extracted in Greenland into the Union

Notwithstanding Article 4, rough diamonds mined or extracted in Greenland may be imported into the Union where:

- (a) they were previously lawfully re-exported from the Union to Greenland;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the attesting document referred to in Article 4(2) as validated by a Union authority pursuant to Article 4(5).

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

- (c) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers;
- (e) the rough diamonds have not been previously exported to a participant other than the Union.

Article 6

Other imports into the Union of rough diamonds from Greenland

Notwithstanding Articles 4 and 5, rough diamonds from Greenland may be imported into the Union where:

- (a) they were previously lawfully exported from the Union to Greenland;
- (b) they are accompanied by the document referred to in point (b) of Article 9;
- (c) they are contained in tamper-resistant containers, and the seals applied at export are not broken;
- (d) the document referred to in point (b) of Article 9 clearly identifies the consignment to which it refers.

Article 7

Export of rough diamonds from Greenland to other participants

1. Rough diamonds may be exported from Greenland to a participant other than the Union only where:

- (a) they were first lawfully imported from Greenland into the Union in accordance with Articles 4(1), 5 or 6;
- (b) on importation into the Union, they were submitted for verification to a Union authority;
- (c) they are accompanied by a corresponding EU certificate issued and validated by a Union authority;
- (d) they are contained in tamper-resistant containers sealed in accordance with Article 12 of Regulation (EC) No 2368/2002.

2. A Union authority to which rough diamonds imported from Greenland into the Union are submitted for verification shall issue a EU certificate to the exporter of such diamonds in accordance with Article 12 of Regulation (EC) No 2368/2002.

3. A Member State into which rough diamonds are imported from Greenland shall ensure their submission to the appropriate Union authority.

4. The exporter shall be responsible for the proper movement of the rough diamonds and the costs thereof.

Article 8

Re-export from the Union into Greenland of rough diamonds mined or extracted in Greenland

Rough diamonds mined or extracted in Greenland may be re-exported to Greenland from the Union where:

- (a) they were first lawfully imported from Greenland into the Union in accordance with Articles 4(1), 5 or 6;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the attesting document referred to in Article 4(2) as validated by a Union authority pursuant to Article 4(5);
- (c) they are contained in tamper-resistant containers, and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers,
- (e) the rough diamonds have not been previously exported to a participant other than the Union.

Article 9

Other imports into Greenland of rough diamonds from other participants

Notwithstanding Article 8, rough diamonds may be exported into Greenland from the Union where:

- (a) they were first lawfully imported into the Union from a participant other than the Union in accordance with Chapter II of Regulation (EC) No 2368/2002;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the confirmed certificate in accordance with point (a) of Article 5(1) of Regulation (EC) No 2368/2002;
- (c) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers.

Article 10

Reporting

1. The Greenland authority shall provide the Commission with a monthly report on all attesting documents issued under Article 4(2).

2. For each attesting document this report shall list at least:

- (a) the unique serial number of the attesting document,
- (b) the name of the issuing authority, as listed in Annex II,
- (c) the date of issue,
- (d) the date of expiry of validity,
- (e) the country of origin,
- (f) the Harmonised Commodity Description and Coding System code(s) ('HS code'),
- (g) the carat weight,
- (h) the value (estimated).

Article 11

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

It shall apply from the day Greenland notifies the Commission that it has implemented in national law the relevant provisions of Regulation (EC) No 2368/2002 to allow the inclusion of Greenland in the KP certification scheme.

Done at Brussels, 20 February 2014.

For the Council
The President
K. HATZIDAKIS

ANNEX I

Attesting document as referred to in Articles 4, 5, 8 and 10

The attesting document referred to in Articles 4, 5, 8 and 10 shall have at least the following features:

- (a) unique serial number,
 - (b) the date of issue,
 - (c) the date of expiry of validity,
 - (d) the name, signature and stamp of the issuing authority identified in Annex II,
 - (e) the country of origin (Greenland),
 - (f) the HS code(s),
 - (g) the carat weight,
 - (h) the value (estimated),
 - (i) identification of the exporter and the recipient.
-

*ANNEX II***Competent authority for Greenland as referred to in Articles 3(2), 4 and 10**

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