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DECISIONS

- ★ **Council Decision (EU) 2018/893 of 18 June 2018 on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment of Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement (General Data Protection Regulation) ⁽¹⁾** 31
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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2018/889

of 4 June 2018

on the conclusion, on behalf of the European Union, of the Council of Europe Convention on the Prevention of Terrorism

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) In accordance with Council Decision (EU) 2015/1913 ⁽²⁾, the Council of Europe Convention on the Prevention of Terrorism ⁽³⁾ ('the Convention') was signed on 22 October 2015, subject to its conclusion.
- (2) Article 23 of the Convention provides that the Convention is open for approval by the Union.
- (3) Directive (EU) 2017/541 of the European Parliament and of the Council ⁽⁴⁾ established common Union rules on combatting terrorism. Consequently, the Union has already adopted measures in different areas covered by the Convention.
- (4) The Convention should therefore be approved on behalf of the Union as regards matters falling within the competence of the Union in so far as the Convention may affect those common rules or alter their scope. The Member States retain their competence in so far as the Convention does not affect common rules or alter the scope thereof.
- (5) Ireland is bound by Council Framework Decision 2002/475/JHA ⁽⁵⁾ and is therefore taking part in the adoption of this Decision.
- (6) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

⁽¹⁾ Consent of 18 April 2018 (not yet published in the Official Journal).

⁽²⁾ Council Decision (EU) 2015/1913 of 18 September 2015 on the signing, on behalf of the European Union, of the Council of Europe Convention on the Prevention of Terrorism (CETS No 196) (OJ L 280, 24.10.2015, p. 22).

⁽³⁾ CETS No 196.

⁽⁴⁾ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

⁽⁵⁾ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

HAS ADOPTED THIS DECISION:

Article 1

The Council of Europe Convention on the Prevention of Terrorism, as regards matters falling within the competence of the Union, is hereby approved on behalf of the Union.

The text of the Convention is attached to this Decision.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 23 of the Convention ⁽¹⁾.

Article 3

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

Done at Luxembourg, 4 June 2018.

For the Council
The President
T. TSACHEVA

⁽¹⁾ The date of entry into force of the Convention for the European Union will be published in the Official Journal by the General Secretariat of the Council.

COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM

Warsaw, 16 May 2005

THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE OTHER SIGNATORIES HERETO,

CONSIDERING that the aim of the Council of Europe is to achieve greater unity between its members;

RECOGNISING the value of reinforcing cooperation with the other Parties to this Convention;

WISHING to take effective measures to prevent terrorism and to counter, in particular, public provocation to commit terrorist offences and recruitment and training for terrorism;

AWARE of the grave concern caused by the increase in terrorist offences and the growing terrorist threat;

AWARE of the precarious situation faced by those who suffer from terrorism, and in this connection reaffirming their profound solidarity with the victims of terrorism and their families;

RECOGNISING that terrorist offences and the offences set forth in this Convention, by whoever perpetrated, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and recalling the obligation of all Parties to prevent such offences and, if not prevented, to prosecute and ensure that they are punishable by penalties which take into account their grave nature;

RECALLING the need to strengthen the fight against terrorism and reaffirming that all measures taken to prevent or suppress terrorist offences have to respect the rule of law and democratic values, human rights and fundamental freedoms as well as other provisions of international law, including, where applicable, international humanitarian law;

RECOGNISING that this Convention is not intended to affect established principles relating to freedom of expression and freedom of association;

RECALLING that acts of terrorism have the purpose by their nature or context to seriously intimidate a population or unduly compel a government or an international organisation to perform or abstain from performing any act or seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation;

HAVE AGREED AS FOLLOWS:

*Article 1***Terminology**

1. For the purposes of this Convention, 'terrorist offence' means any of the offences within the scope of and as defined in one of the treaties listed in the Appendix.
2. On depositing its instrument of ratification, acceptance, approval or accession, a State or the European Community which is not a party to a treaty listed in the Appendix may declare that, in the application of this Convention to the Party concerned, that treaty shall be deemed not to be included in the Appendix. This declaration shall cease to have effect as soon as the treaty enters into force for the Party having made such a declaration, which shall notify the Secretary-General of the Council of Europe of this entry into force.

*Article 2***Purpose**

The purpose of the present Convention is to enhance the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures to be taken at national level and through international cooperation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.

*Article 3***National prevention policies**

1. Each Party shall take appropriate measures, particularly in the field of training of law enforcement authorities and other bodies, and in the fields of education, culture, information, media and public awareness raising, with a view to preventing terrorist offences and their negative effects while respecting human rights obligations as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.
2. Each Party shall take such measures as may be necessary to improve and develop the cooperation among national authorities with a view to preventing terrorist offences and their negative effects by, inter alia:
 - a. exchanging information;
 - b. improving the physical protection of persons and facilities;
 - c. enhancing training and coordination plans for civil emergencies.
3. Each Party shall promote tolerance by encouraging inter-religious and cross-cultural dialogue involving, where appropriate, non-governmental organisations and other elements of civil society with a view to preventing tensions that might contribute to the commission of terrorist offences.
4. Each Party shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by terrorist offences and the offences set forth in this Convention and consider encouraging the public to provide factual, specific help to its competent authorities that may contribute to preventing terrorist offences and offences set forth in this Convention.

*Article 4***International cooperation on prevention**

Parties shall, as appropriate and with due regard to their capabilities, assist and support each other with a view to enhancing their capacity to prevent the commission of terrorist offences, including through exchange of information and best practices, as well as through training and other joint efforts of a preventive character.

*Article 5***Public provocation to commit a terrorist offence**

1. For the purposes of this Convention, 'public provocation to commit a terrorist offence' means the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.
2. Each Party shall adopt such measures as may be necessary to establish public provocation to commit a terrorist offence, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 6***Recruitment for terrorism**

1. For the purposes of this Convention, 'recruitment for terrorism' means to solicit another person to commit or participate in the commission of a terrorist offence, or to join an association or group, for the purpose of contributing to the commission of one or more terrorist offences by the association or the group.
2. Each Party shall adopt such measures as may be necessary to establish recruitment for terrorism, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 7***Training for terrorism**

1. For the purposes of this Convention, 'training for terrorism' means to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence, knowing that the skills provided are intended to be used for this purpose.
2. Each Party shall adopt such measures as may be necessary to establish training for terrorism, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 8***Irrelevance of the commission of a terrorist offence**

For an act to constitute an offence as set forth in Articles 5 to 7 of this Convention, it shall not be necessary that a terrorist offence be actually committed.

*Article 9***Ancillary offences**

1. Each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law:
 - a. Participating as an accomplice in an offence as set forth in Articles 5 to 7 of this Convention;
 - b. Organising or directing others to commit an offence as set forth in Articles 5 to 7 of this Convention;
 - c. Contributing to the commission of one or more offences as set forth in Articles 5 to 7 of this Convention by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - i. be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in Articles 5 to 7 of this Convention; or
 - ii. be made in the knowledge of the intention of the group to commit an offence as set forth in Articles 5 to 7 of this Convention.
2. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in Articles 6 and 7 of this Convention.

*Article 10***Liability of legal entities**

1. Each Party shall adopt such measures as may be necessary, in accordance with its legal principles, to establish the liability of legal entities for participation in the offences set forth in Articles 5 to 7 and 9 of this Convention.
2. Subject to the legal principles of the Party, the liability of legal entities may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

*Article 11***Sanctions and measures**

1. Each Party shall adopt such measures as may be necessary to make the offences set forth in Articles 5 to 7 and 9 of this Convention punishable by effective, proportionate and dissuasive penalties.

2. Previous final convictions pronounced in foreign States for offences set forth in the present Convention may, to the extent permitted by domestic law, be taken into account for the purpose of determining the sentence in accordance with domestic law.

3. Each Party shall ensure that legal entities held liable in accordance with Article 10 are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Article 12

Conditions and safeguards

1. Each Party shall ensure that the establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of this Convention are carried out while respecting human rights obligations, in particular the right to freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.

2. The establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of this Convention should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

Article 13

Protection, compensation and support for victims of terrorism

Each Party shall adopt such measures as may be necessary to protect and support the victims of terrorism that has been committed within its own territory. These measures may include, through the appropriate national schemes and subject to domestic legislation, inter alia, financial assistance and compensation for victims of terrorism and their close family members.

Article 14

Jurisdiction

1. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention:

- a. when the offence is committed in the territory of that Party;
- b. when the offence is committed on board a ship flying the flag of that Party, or on board an aircraft registered under the laws of that Party;
- c. when the offence is committed by a national of that Party.

2. Each Party may also establish its jurisdiction over the offences set forth in this Convention:

- a. when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, in the territory of or against a national of that Party;
- b. when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, against a State or government facility of that Party abroad, including diplomatic or consular premises of that Party;
- c. when the offence was directed towards or resulted in an offence referred to in Article 1 of this Convention, committed in an attempt to compel that Party to do or abstain from doing any act;
- d. when the offence is committed by a stateless person who has his or her habitual residence in the territory of that Party;
- e. when the offence is committed on board an aircraft which is operated by the Government of that Party.

3. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention in the case where the alleged offender is present in its territory and it does not extradite him or her to a Party whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested Party.
4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.
5. When more than one Party claims jurisdiction over an alleged offence set forth in this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

Article 15

Duty to investigate

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in this Convention may be present in its territory, the Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.
2. Upon being satisfied that the circumstances so warrant, the Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.
3. Any person in respect of whom the measures referred to in paragraph 2 are being taken shall be entitled to:
 - a. communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;
 - b. be visited by a representative of that State;
 - c. be informed of that person's rights under subparagraphs a. and b.
4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the Party in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.
5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any Party having a claim of jurisdiction in accordance with Article 14, paragraphs 1.c and 2.d to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

Article 16

Non-application of the Convention

This Convention shall not apply where any of the offences established in accordance with Articles 5 to 7 and 9 is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State, and no other State has a basis under Article 14, paragraph 1 or 2 of this Convention, to exercise jurisdiction, it being understood that the provisions of Articles 17 and 20 to 22 of this Convention shall, as appropriate, apply in those cases.

Article 17

International cooperation in criminal matters

1. Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in Articles 5 to 7 and 9 of this Convention, including assistance in obtaining evidence in their possession necessary for the proceedings.
2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other agreements on mutual legal assistance that may exist between them. In the absence of such treaties or agreements, Parties shall afford one another assistance in accordance with their domestic law.

3. Parties shall cooperate with each other to the fullest extent possible under relevant law, treaties, agreements and arrangements of the requested Party with respect to criminal investigations or proceedings in relation to the offences for which a legal entity may be held liable in accordance with Article 10 of this Convention in the requesting Party.

4. Each Party may give consideration to establishing additional mechanisms to share with other Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to Article 10.

Article 18

Extradite or prosecute

1. The Party in the territory of which the alleged offender is present shall, when it has jurisdiction in accordance with Article 14, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party. Those authorities shall take their decision in the same manner as in the case of any other offence of a serious nature under the law of that Party.

2. Whenever a Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that Party to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this Party and the Party seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 19

Extradition

1. The offences set forth in Articles 5 to 7 and 9 of this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Convention. Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, if it so decides, consider this Convention as a legal basis for extradition in respect of the offences set forth in Articles 5 to 7 and 9 of this Convention. Extradition shall be subject to the other conditions provided by the law of the requested Party.

3. Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in Articles 5 to 7 and 9 of this Convention as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party.

4. Where necessary, the offences set forth in Articles 5 to 7 and 9 of this Convention shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 14.

5. The provisions of all extradition treaties and agreements concluded between Parties in respect of offences set forth in Articles 5 to 7 and 9 of this Convention shall be deemed to be modified as between Parties to the extent that they are incompatible with this Convention.

Article 20

Exclusion of the political exception clause

1. None of the offences referred to in Articles 5 to 7 and 9 of this Convention, shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence, an offence connected with a political offence, or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Without prejudice to the application of Articles 19 to 23 of the Vienna Convention on the Law of Treaties of 23 May 1969 to the other Articles of this Convention, any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession of the Convention, declare that it reserves the right to not apply paragraph 1 of this Article as far as extradition in respect of an offence set forth in this Convention is concerned. The Party undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision.
3. Any Party may wholly or partly withdraw a reservation it has made in accordance with paragraph 2 by means of a declaration addressed to the Secretary-General of the Council of Europe which shall become effective as from the date of its receipt.
4. A Party which has made a reservation in accordance with paragraph 2 of this Article may not claim the application of paragraph 1 of this Article by any other Party; it may, however, if its reservation is partial or conditional, claim the application of this article in so far as it has itself accepted it.
5. The reservation shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the Party concerned. However, such reservation may be renewed for periods of the same duration.
6. 12 months before the date of expiry of the reservation, the Secretary-General of the Council of Europe shall give notice of that expiry to the Party concerned. No later than three months before expiry, the Party shall notify the Secretary-General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Party notifies the Secretary-General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Party concerned, the Secretary-General of the Council of Europe shall inform that Party that its reservation is considered to have been extended automatically for a period of six months. Failure by the Party concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.
7. Where a Party does not extradite a person in application of this reservation, after receiving an extradition request from another Party, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting Party and the requested Party agree otherwise. The competent authorities, for the purpose of prosecution in the requested Party, shall take their decision in the same manner as in the case of any offence of a grave nature under the law of that Party. The requested Party shall communicate, without undue delay, the final outcome of the proceedings to the requesting Party and to the Secretary-General of the Council of Europe, who shall forward it to the Consultation of the Parties provided for in Article 30.
8. The decision to refuse the extradition request on the basis of this reservation shall be forwarded promptly to the requesting Party. If within a reasonable time no judicial decision on the merits has been taken in the requested Party according to paragraph 7, the requesting Party may communicate this fact to the Secretary-General of the Council of Europe, who shall submit the matter to the Consultation of the Parties provided for in Article 30. This Consultation shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the States Parties.

Article 21

Discrimination clause

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested Party has substantial grounds for believing that the request for extradition for offences set forth in Articles 5 to 7 and 9 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.
2. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to torture or to inhuman or degrading treatment or punishment.
3. Nothing in this Convention shall be interpreted either as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to the death penalty or, where the law of the requested Party does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested Party is under the obligation to extradite if the requesting Party gives such assurance as the requested Party considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

*Article 22***Spontaneous information**

1. Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the Party receiving the information in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under this Convention.
2. The Party providing the information may, pursuant to its national law, impose conditions on the use of such information by the Party receiving the information.
3. The Party receiving the information shall be bound by those conditions.
4. However, any Party may, at any time, by means of a declaration addressed to the Secretary-General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the Party providing the information under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.

*Article 23***Signature and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe, the European Community and by non-member States which have participated in its elaboration.
2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of Europe.
3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which six Signatories, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 2.
4. In respect of any Signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraph 2.

*Article 24***Accession to the Convention**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Parties to the Convention, may invite any State which is not a member of the Council of Europe and which has not participated in its elaboration to accede to this convention. The decision shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee of Ministers.
2. In respect of any State acceding to the convention under paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary-General of the Council of Europe.

*Article 25***Territorial application**

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary-General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary-General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary-General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary-General.

Article 26

Effects of the Convention

1. The present Convention supplements applicable multilateral or bilateral treaties or agreements between the Parties, including the provisions of the following Council of Europe treaties:

- European Convention on Extradition, opened for signature, in Paris, on 13 December 1957 (ETS No 24),
- European Convention on Mutual Assistance in Criminal Matters, opened for signature, in Strasbourg, on 20 April 1959 (ETS No 30),
- European Convention on the Suppression of Terrorism, opened for signature, in Strasbourg, on 27 January 1977 (ETS No 90),
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 17 March 1978 (ETS No 99),
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 8 November 2001 (ETS No 182),
- Protocol amending the European Convention on the Suppression of Terrorism, opened for signature in Strasbourg on 15 May 2003 (ETS No 190).

2. If two or more Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly. However, where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.

3. Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.

4. Nothing in this Convention shall affect other rights, obligations and responsibilities of a Party and individuals under international law, including international humanitarian law.

5. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a Party in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 27

Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party, the Committee of Ministers of the Council of Europe or the Consultation of the Parties.

2. Any proposal for amendment shall be communicated by the Secretary-General of the Council of Europe to the Parties.

3. Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Consultation of the Parties, which shall submit to the Committee of Ministers its opinion on the proposed amendment.
4. The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Consultation of the Parties and may approve the amendment.
5. The text of any amendment approved by the Committee of Ministers in accordance with paragraph 4 shall be forwarded to the Parties for acceptance.
6. Any amendment approved in accordance with paragraph 4 shall come into force on the thirtieth day after all Parties have informed the Secretary-General of their acceptance thereof.

Article 28

Revision of the Appendix

1. In order to update the list of treaties in the Appendix, amendments may be proposed by any Party or by the Committee of Ministers. These proposals for amendment shall only concern universal treaties concluded within the United Nations system dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary-General of the Council of Europe to the Parties.
2. After having consulted the non-member Parties, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Parties. During this period, any Party may notify the Secretary-General of the Council of Europe of any objection to the entry into force of the amendment in respect of that Party.
3. If one third of the Parties notifies the Secretary-General of the Council of Europe of an objection to the entry into force of the amendment, the amendment shall not enter into force.
4. If less than one third of the Parties notifies an objection, the amendment shall enter into force for those Parties which have not notified an objection.
5. Once an amendment has entered into force in accordance with paragraph 2 and a Party has notified an objection to it, this amendment shall come into force in respect of the Party concerned on the first day of the month following the date on which it notifies the Secretary-General of the Council of Europe of its acceptance.

Article 29

Settlement of disputes

In the event of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to an arbitral tribunal whose decisions shall be binding upon the Parties to the dispute, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 30

Consultation of the Parties

1. The Parties shall consult periodically with a view to:
 - a. making proposals to facilitate or improve the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration made under this Convention;
 - b. formulating its opinion on the conformity of a refusal to extradite which is referred to them in accordance with Article 20, paragraph 8;
 - c. making proposals for the amendment of this Convention in accordance with Article 27;

- d. formulating their opinion on any proposal for the amendment of this Convention which is referred to them in accordance with Article 27, paragraph 3;
 - e. expressing an opinion on any question concerning the application of this Convention and facilitating the exchange of information on significant legal, policy or technological developments.
2. The Consultation of the Parties shall be convened by the Secretary-General of the Council of Europe whenever he finds it necessary and in any case when a majority of the Parties or the Committee of Ministers request its convocation.
 3. The Parties shall be assisted by the Secretariat of the Council of Europe in carrying out their functions pursuant to this article.

Article 31

Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary-General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary-General.

Article 32

Notification

The Secretary-General of the Council of Europe shall notify the member States of the Council of Europe, the European Community, the non-member States which have participated in the elaboration of this Convention as well as any State which has acceded to, or has been invited to accede to, this Convention of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Article 23;
- d. any declaration made under Article 1, paragraph 2, 22, paragraph 4, and 25;
- e. any other act, notification or communication relating to this Convention.

IN WITNESS WHEREOF THE UNDERSIGNED, being duly authorised thereto, have signed this Convention.

Done at Warsaw, this 16th day of May 2005, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the European Community, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to it.

Appendix

1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
2. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
3. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
4. International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;
5. Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980;
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;
7. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
8. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
9. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;
10. International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999;
11. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005 ⁽¹⁾.

⁽¹⁾ Amendment to the Appendix adopted by the Ministers' Deputies at their 1034th meeting (11 September 2008, item 10.1) and entered into force on 13 September 2009 in accordance with Article 28 of the Convention.

COUNCIL DECISION (EU) 2018/890**of 4 June 2018****on the conclusion, on behalf of the European Union, of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) In accordance with Council Decision (EU) 2015/1914 ⁽²⁾, the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism ⁽³⁾ ('the Additional Protocol') was signed on 22 October 2015, subject to its conclusion.
- (2) Article 10 of the Additional Protocol provides that the Additional Protocol shall be open for approval by the Union.
- (3) Directive (EU) 2017/541 of the European Parliament and of the Council ⁽⁴⁾ established common Union rules on combatting terrorism. Consequently, the Union has already adopted measures in different areas covered by the Additional Protocol.
- (4) The Additional Protocol should therefore be approved on behalf of the Union as regards matters falling within the competence of the Union in so far as the Additional Protocol may affect those common rules or alter their scope. The Member States retain their competence in so far as the Additional Protocol does not affect common rules or alter the scope thereof.
- (5) The Additional Protocol requires each Party to designate a point of contact for the purpose of exchange of information on persons travelling abroad for the purpose of terrorism. Europol should be designated as the point of contact for the Union. Points of contact for the Member States may also be designated.
- (6) Ireland is bound by Council Framework Decision 2002/475/JHA ⁽⁵⁾ and is therefore taking part in the adoption of this Decision.
- (7) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, as regards matters falling within the competence of the Union, is hereby approved on behalf of the Union.

The text of the Additional Protocol is attached to this Decision.

⁽¹⁾ Consent of 18 April 2018 (not yet published in the Official Journal).

⁽²⁾ Council Decision (EU) 2015/1914 of 18 September 2015 on the signing, on behalf of the European Union, of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No 196) (OJ L 280, 24.10.2015, p. 24).

⁽³⁾ CETS No 217.

⁽⁴⁾ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

⁽⁵⁾ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

Article 2

The European Union Agency for Law Enforcement Cooperation (Europol) is designated as the point of contact for the Union, as provided for in Article 7 of the Additional Protocol and in accordance with Regulation (EU) 2016/794 of the European Parliament and of the Council ⁽¹⁾.

Article 3

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 10 of the Additional Protocol ⁽²⁾.

Article 4

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

Done at Luxembourg, 4 June 2018.

For the Council

The President

T. TSACHEVA

⁽¹⁾ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

⁽²⁾ The date of entry into force of the Additional Protocol for the European Union will be published in the *Official Journal* by the General Secretariat of the Council.

ADDITIONAL PROTOCOL TO THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF
TERRORISM

Riga, 22 October 2015

THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE OTHER PARTIES TO THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM (CETS No 196), signatory to this Protocol,

CONSIDERING that the aim of the Council of Europe is to achieve greater unity between its members;

DESIRING to further strengthen the efforts to prevent and suppress terrorism in all its forms, both in Europe and globally, while respecting human rights and the rule of law;

RECALLING human rights and fundamental freedoms enshrined, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No 5) and its protocols, as well as in the International Covenant on Civil and Political Rights;

EXPRESSING their grave concern about the threat posed by persons travelling abroad for the purpose of committing, contributing to or participating in terrorist offences, or the providing or receiving of training for terrorism in the territory of another State;

HAVING REGARD in this respect to Resolution 2178 (2014) adopted by the Security Council of the United Nations at its 7272nd meeting on 24 September 2014, in particular paragraphs 4 to 6 thereof;

CONSIDERING it desirable to supplement the Council of Europe Convention on the Prevention of Terrorism in certain respects,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Protocol is to supplement the provisions of the Council of Europe Convention on the Prevention of Terrorism, opened for signature in Warsaw on 16 May 2005 (hereinafter referred to as 'the Convention') as regards the criminalisation of the acts described in Articles 2 to 6 of this Protocol, thereby enhancing the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures to be taken at national level and through international cooperation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.

Article 2

Participating in an association or group for the purpose of terrorism

1. For the purpose of this Protocol, 'participating in an association or group for the purpose of terrorism' means to participate in the activities of an association or group for the purpose of committing or contributing to the commission of one or more terrorist offences by the association or the group.
2. Each Party shall adopt such measures as may be necessary to establish 'participating in an association or group for the purpose of terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Article 3

Receiving training for terrorism

1. For the purpose of this Protocol, 'receiving training for terrorism' means to receive instruction, including obtaining knowledge or practical skills, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence.
2. Each Party shall adopt such measures as may be necessary to establish 'receiving training for terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 4***Travelling abroad for the purpose of terrorism**

1. For the purpose of this Protocol, 'travelling abroad for the purpose of terrorism' means travelling to a State, which is not that of the traveller's nationality or residence, for the purpose of the commission of, contribution to or participation in a terrorist offence, or the providing or receiving of training for terrorism.
2. Each Party shall adopt such measures as may be necessary to establish 'travelling abroad for the purpose of terrorism', as defined in paragraph 1, from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so each Party may establish conditions required by and in line with its constitutional principles.
3. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in this article.

*Article 5***Funding travelling abroad for the purpose of terrorism**

1. For the purpose of this Protocol, 'funding travelling abroad for the purpose of terrorism' means providing or collecting, by any means, directly or indirectly, funds fully or partially enabling any person to travel abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the funds are fully or partially intended to be used for this purpose.
2. Each Party shall adopt such measures as may be necessary to establish the 'funding of travelling abroad for the purpose of terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 6***Organising or otherwise facilitating travelling abroad for the purpose of terrorism**

1. For the purpose of this Protocol, 'organising or otherwise facilitating travelling abroad for the purpose of terrorism' means any act of organisation or facilitation that assists any person in travelling abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the assistance thus rendered is for the purpose of terrorism.
2. Each Party shall adopt such measures as may be necessary to establish 'organising or otherwise facilitating travelling abroad for the purpose of terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 7***Exchange of information**

1. Without prejudice to Article 3, paragraph 2, subparagraph a, of the Convention and in accordance with its domestic law and existing international obligations, each Party shall take such measures as may be necessary in order to strengthen the timely exchange between Parties of any available relevant information concerning persons travelling abroad for the purpose of terrorism, as defined in Article 4. For that purpose, each Party shall designate a point of contact available on a 24-hour, seven-days-a-week basis.
2. A Party may choose to designate an already existing point of contact under paragraph 1.
3. A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.

*Article 8***Conditions and safeguards**

1. Each Party shall ensure that the implementation of this Protocol, including the establishment, implementation and application of the criminalisation under Articles 2 to 6, is carried out while respecting human rights obligations, in particular the right to freedom of movement, freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and other obligations under international law.

2. The establishment, implementation and application of the criminalisation under Articles 2 to 6 of this Protocol should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

Article 9

Relation between this Protocol and the Convention

The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. As between the Parties, all the provisions of the Convention shall apply accordingly, with the exception of Article 9.

Article 10

Signature and entry into force

1. This Protocol shall be open for signature by Signatories to the Convention. It shall be subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously ratified, accepted or approved the Convention, or does so simultaneously. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of Europe.

2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the sixth instrument of ratification, acceptance or approval, including at least four member States of the Council of Europe.

3. In respect of any Signatory which subsequently deposits its instrument of ratification, acceptance or approval, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 11

Accession to the Protocol

1. After the entry into force of this Protocol, any State, which has acceded to the Convention, may also accede to this Protocol or do so simultaneously.

2. In respect of any State acceding to the Protocol under paragraph 1 above, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary-General of the Council of Europe.

Article 12

Territorial application

1. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any Party may, at any later time, by declaration addressed to the Secretary-General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary-General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary-General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary-General.

Article 13

Denunciation

1. Any Party may, at any time, denounce this Protocol by means of a notification addressed to the Secretary-General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary-General of the Council of Europe.
3. Denunciation of the Convention automatically entails denunciation of this Protocol.

Article 14

Notifications

The Secretary-General of the Council of Europe shall notify the member States of the Council of Europe, the European Union, the non-member States which have participated in the elaboration of this Protocol as well as any State which has acceded to, or has been invited to accede to, this Protocol of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Protocol in accordance with Articles 10 and 11;
- d. any other act, declaration, notification or communication relating to this Protocol.

IN WITNESS WHEREOF THE UNDERSIGNED, being duly authorised thereto, have signed this Protocol.

Done at Riga, this 22nd day of October 2015, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the European Union, to the non-member States which have participated in the elaboration of this Protocol, and to any State invited to accede to it.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2018/891

of 21 June 2018

establishing budgetary ceilings for 2018 applicable to certain direct support schemes provided for in Regulation (EU) No 1307/2013 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ⁽¹⁾, and in particular Articles 22(1), 36(4), 42(2), 47(3), 49(2), 51(4) and 53(7) thereof,

Whereas:

- (1) For each Member State implementing the basic payment scheme provided for in Chapter 1 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 22(1) of that Regulation for 2018 has to be set by the Commission by deducting from the annual national ceiling set out in Annex II to that Regulation the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 of that Regulation. In accordance with Article 22(2) of Regulation (EU) No 1307/2013 any increases applied by Member States pursuant to that provision are to be taken into account.
- (2) For each Member State implementing the single area payment scheme provided for in Chapter 1 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 36(4) of that Regulation for 2018 has to be set by the Commission by deducting from the annual national ceiling set out in Annex II to that Regulation the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 of that Regulation. In accordance with the second subparagraph of Article 36(4) of Regulation (EU) No 1307/2013, when setting the annual national ceiling for the single area payment scheme, any increases applied by Member States pursuant to that provision are to be taken into account by the Commission.
- (3) For each Member State granting the redistributive payment provided for in Chapter 2 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 42(2) of that Regulation for 2018 has to be set by the Commission on the basis of the percentage notified by those Member States pursuant to Article 42(1) of that Regulation.
- (4) In relation to the payment for agricultural practices beneficial for the climate and the environment provided for in Chapter 3 of Title III of Regulation (EU) No 1307/2013 in 2018, the annual national ceilings referred to in Article 47(3) of that Regulation for 2018 have to be calculated in accordance with Article 47(1) of that Regulation and amounting to 30 % of the national ceiling of the relevant Member State as set out in Annex II to that Regulation.
- (5) For Member States granting the payment for areas with natural constraints provided for in Chapter 4 of Title III of Regulation (EU) No 1307/2013, the annual national ceilings referred to in Article 49(2) of that Regulation for 2018 have to be set by the Commission on the basis of the percentage notified by the relevant Member States pursuant to Article 49(1) of that Regulation.
- (6) In relation to the payment for young farmers provided for in Chapter 5 of Title III of Regulation (EU) No 1307/2013, the annual national ceilings referred to in Article 51(4) of that Regulation for 2018 have to be set by the Commission on the basis of the percentage notified by Member States pursuant to Article 51(1) of that Regulation and have not to be higher than 2 % of the annual ceiling set out in Annex II.

⁽¹⁾ OJ L 347, 20.12.2013, p. 608.

- (7) Where the total amount of the payment for young farmers applied for in 2018 in a Member State exceeds the ceiling set pursuant to Article 51(4) of Regulation (EU) No 1307/2013 for that Member State, the difference has to be financed by the Member State in accordance with Article 51(2) of that Regulation whilst respecting the maximum amount laid down in Article 51(1) of that Regulation. For the sake of clarity, it is appropriate to set this maximum amount for each Member State.
- (8) For each Member State granting voluntary coupled support provided for in Chapter 1 of Title IV of Regulation (EU) No 1307/2013 in 2018, the Commission has to set the annual national ceilings referred to in Article 53(7) of that Regulation for 2018 on the basis of the percentage notified by the relevant Member State pursuant to Article 54(1) of that Regulation.
- (9) Concerning the year 2018, the implementation of direct support schemes provided for in Regulation (EU) No 1307/2013 started on 1 January 2018. For the sake of consistency between the applicability of that Regulation for the claim year 2018 and the applicability of the corresponding budgetary ceilings, this Regulation should apply from the same date.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

The annual national ceilings for 2018 for the basic payment scheme referred to in Article 22(1) of Regulation (EU) No 1307/2013 are set out in point I of the Annex to this Regulation.

The annual national ceilings for 2018 for the single area payment scheme referred to in Article 36(4) of Regulation (EU) No 1307/2013 are set out in point II of the Annex to this Regulation.

The annual national ceilings for 2018 for the redistributive payment referred to in Article 42(2) of Regulation (EU) No 1307/2013 are set out in point III of the Annex to this Regulation.

The annual national ceilings for 2018 for the payment for agricultural practices beneficial for the climate and the environment referred to in Article 47(3) of Regulation (EU) No 1307/2013 are set out in point IV of the Annex to this Regulation.

The annual national ceilings for 2018 for the payment for areas with natural constraints referred to in Article 49(2) of Regulation (EU) No 1307/2013 are set out in point V of the Annex to this Regulation.

The annual national ceilings for 2018 for the payment for young farmers referred to in Article 51(4) of Regulation (EU) No 1307/2013 are set out in point VI of the Annex to this Regulation.

The maximum amounts for 2018 for the payment for young farmers referred to in Article 51(1) of Regulation (EU) No 1307/2013 are set out in point VII of the Annex to this Regulation.

The annual national ceilings for 2018 for voluntary coupled support referred to in Article 53(7) of Regulation (EU) No 1307/2013 are set out in point VIII of the Annex to this Regulation.

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*.

It shall apply from 1 January 2018.

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

Done at Brussels, 21 June 2018.

For the Commission

The President

Jean-Claude JUNKER

ANNEX

I. Annual national ceilings for the basic payment scheme referred to in Article 22(1) of Regulation (EU) No 1307/2013*(thousand EUR)*

Calendar year	2018
Belgium	214 405
Denmark	546 808
Germany	3 005 470
Ireland	825 895
Greece	1 103 650
Spain	2 835 995
France	3 036 371
Croatia	126 001
Italy	2 217 396
Luxembourg	22 760
Malta	649
Netherlands	475 161
Austria	470 387
Portugal	273 500
Slovenia	74 288
Finland	262 554
Sweden	402 464
United Kingdom	2 102 726

II. Annual national ceilings for the single area payment scheme referred to in Article 36(4) of Regulation (EU) No 1307/2013*(thousand EUR)*

Calendar year	2018
Bulgaria	379 916
Czech Republic	472 217
Estonia	87 170
Cyprus	30 340
Latvia	137 210
Lithuania	184 186
Hungary	733 283

(thousand EUR)

Calendar year	2018
Poland	1 568 075
Romania	989 564
Slovakia	260 865

III. Annual national ceilings for the redistributive payment referred to in Article 42(2) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Belgium	46 780
Bulgaria	55 872
Germany	337 423
France	690 084
Croatia	27 939
Lithuania	71 298
Poland	293 930
Portugal	23 050
Romania	99 436
United Kingdom	64 991

IV. Annual national ceilings for the payment for agricultural practices beneficial for the climate and the environment as referred to in Article 47(3) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Belgium	146 689
Bulgaria	238 428
Czech Republic	258 512
Denmark	248 032
Germany	1 446 097
Estonia	40 181
Ireland	363 445
Greece	556 642
Spain	1 464 015
France	2 070 253
Croatia	83 816

(thousand EUR)

Calendar year	2018
Italy	1 125 581
Cyprus	14 747
Latvia	76 588
Lithuania	142 596
Luxembourg	10 038
Hungary	402 903
Malta	1 573
Netherlands	204 785
Austria	207 524
Poland	1 029 371
Portugal	177 212
Romania	561 846
Slovenia	40 542
Slovakia	134 447
Finland	157 219
Sweden	209 617
United Kingdom	958 734

V. Annual national ceilings for payment for areas with natural constraints referred to in Article 49(2) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Denmark	2 857
Slovenia	2 135

VI. Annual national ceilings for the payment for young farmers referred to in Article 51(4) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Belgium	9 229
Bulgaria	1 329
Czech Republic	1 723
Denmark	4 942
Germany	48 203

(thousand EUR)

Calendar year	2018
Estonia	442
Ireland	24 230
Greece	37 109
Spain	97 601
France	69 008
Croatia	5 588
Italy	37 519
Cyprus	480
Latvia	3 200
Lithuania	5 941
Luxembourg	502
Hungary	5 372
Malta	21
Netherlands	13 652
Austria	13 835
Poland	34 312
Portugal	11 814
Romania	18 728
Slovenia	2 027
Slovakia	857
Finland	5 241
Sweden	10 481
United Kingdom	16 358

VII. Maximum amounts for the payment for young farmers referred to in Article 51(1) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Belgium	9 779
Bulgaria	15 895
Czech Republic	17 234
Denmark	16 535

(thousand EUR)

Calendar year	2018
Germany	96 406
Estonia	2 679
Ireland	24 230
Greece	37 109
Spain	97 601
France	138 017
Croatia	5 588
Italy	75 039
Cyprus	983
Latvia	5 106
Lithuania	9 506
Luxembourg	669
Hungary	26 860
Malta	105
Netherlands	13 652
Austria	13 835
Poland	68 625
Portugal	11 814
Romania	37 456
Slovenia	2 703
Slovakia	8 963
Finland	10 481
Sweden	13 974
United Kingdom	63 916

VIII. Annual national ceilings for voluntary coupled support referred to in Article 53(7) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2018
Belgium	82 129
Bulgaria	119 214
Czech Republic	129 256

(thousand EUR)

Calendar year	2018
Denmark	24 135
Estonia	6 142
Ireland	3 000
Greece	184 049
Spain	584 919
France	1 035 126
Croatia	41 908
Italy	450 232
Cyprus	3 932
Latvia	38 294
Lithuania	71 298
Luxembourg	160
Hungary	201 452
Malta	3 000
Netherlands	3 353
Austria	14 527
Poland	505 548
Portugal	117 535
Romania	242 576
Slovenia	17 568
Slovakia	58 260
Finland	102 716
Sweden	90 834
United Kingdom	52 972

COMMISSION IMPLEMENTING REGULATION (EU) 2018/892**of 21 June 2018****on the minimum selling price for skimmed milk powder for the 21st partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) 2016/2080**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage ⁽²⁾, and in particular Article 32 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2016/2080 ⁽³⁾ has opened the sale of skimmed milk powder by a tendering procedure.
- (2) In the light of the tenders received for the 21st partial invitation to tender, a minimum selling price should be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the 21st partial invitation to tender for the selling of skimmed milk powder within the tendering procedure opened by Implementing Regulation (EU) 2016/2080, in respect of which the period during which tenders were to be submitted ended on 19 June 2018, the minimum selling price shall be 119,50 EUR/100 kg.

Article 2

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

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

Done at Brussels, 21 June 2018.

*For the Commission,
On behalf of the President,
Jerzy PLEWA*

*Director-General
Directorate-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 206, 30.7.2016, p. 71.

⁽³⁾ Commission Implementing Regulation (EU) 2016/2080 of 25 November 2016 opening the sale of skimmed milk powder by a tendering procedure (OJ L 321, 29.11.2016, p. 45).

DECISIONS

COUNCIL DECISION (EU) 2018/893

of 18 June 2018

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment of Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement (General Data Protection Regulation)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 ('Protocol 37') to the EEA Agreement.
- (3) Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽³⁾ is to be incorporated into the EEA Agreement.
- (4) Regulation (EU) 2016/679 repeals Directive 95/46/EC of the European Parliament and of the Council ⁽⁴⁾, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (5) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly.
- (6) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

⁽⁴⁾ OJ L 281, 23.11.1995, p. 31.

Article 2

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

Done at Luxembourg, 18 June 2018.

For the Council
The President
R. PORODZANOV

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No ...

of ...

amending Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Recognising that data protection is a fundamental right protected in various international human rights agreements.
- (3) Recognising the importance of equal rights and obligations of data controllers and processors within the EEA.
- (4) This Decision provides that the supervisory authorities of the EFTA States shall participate fully in the one-stop-shop and the consistency mechanism and shall, but for the right to vote and to stand for election as chair or deputy chairs of the European Data Protection Board (the 'Board'), established by Regulation (EU) 2016/679, have the same rights and obligations as supervisory authorities of the EU Member States in that Board. To that effect, the supervisory authorities of the EFTA States shall be included in the activities of the Board, including those of any sub-group that the Board may establish to carry out its work, and receive all information necessary to enable their effective participation including, as necessary, by means of full access to any electronic system for information exchange that may be set up by the Board.
- (5) Regulation (EU) 2016/679 repeals Directive 95/46/EC of the European Parliament and of the Council ⁽²⁾, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (6) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The text of point 5e (Directive 95/46/EC of the European Parliament and of the Council) of Annex XI to the EEA Agreement shall be replaced by the following:

'32016 R 0679: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) The supervisory authorities of the EFTA States shall participate in the activities of the European Data Protection Board, hereinafter referred to as "the Board". To that effect, they shall, but for the right to vote and to stand for election as chair or deputy chairs of the Board, have the same rights and obligations as supervisory authorities of the EU Member States in the Board, unless otherwise provided in this Agreement. The positions of the supervisory authorities of the EFTA States shall be recorded separately by the Board.

The rules of procedures of the Board shall give full effect to the participation of the supervisory authorities of the EFTA States and the EFTA Surveillance Authority with the exception of voting rights and to stand for election as chair or deputy chairs of the Board.

⁽¹⁾ OJ L 119, 4.5.2016, p. 1.

⁽²⁾ OJ L 281, 23.11.1995, p. 31.

- (b) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the terms “Member State(s)” and “supervisory authorities” shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their supervisory authorities, respectively.
- (c) References to Union law or Union data protection provisions shall be understood as referring to the EEA Agreement or data protection provisions contained therein, respectively.
- (d) In Articles 13(1)(f) and 14(1)(f), as regards the EFTA States, the words “applicable pursuant to the EEA Agreement” shall be inserted after the words “adequacy decision by the Commission”.
- (e) In Article 45, as regards the EFTA States, the following shall be inserted after paragraph 1:

“1a. Pending a decision by the EEA Joint Committee to incorporate into the EEA Agreement an implementing act adopted pursuant to paragraphs 3 or 5 of this Article an EFTA State may decide to apply the measures contained therein.

Each EFTA State shall decide and inform the Commission and the EFTA Surveillance Authority, before the entry into force of any implementing act adopted pursuant to paragraphs 3 or 5 of this Article, whether, pending a decision by the EEA Joint Committee to incorporate the implementing act into the EEA Agreement, it will apply the measures contained therein at the same time as the EU Member States or not. In the absence of a decision to the contrary, each EFTA State shall apply the measures contained in an implementing act adopted pursuant to paragraphs 3 or 5 of this Article at the same time as the EU Member States.

Notwithstanding Article 102 of the Agreement, if an agreement on the incorporation into the EEA Agreement of an implementing act adopted pursuant to paragraphs 3 or 5 of this Article cannot be reached in the EEA Joint Committee within twelve months of the entry into force of that implementing act, any EFTA State may discontinue the application of such measures and shall inform the Commission and the EFTA Surveillance Authority thereof without delay.

The other Contracting Parties to the EEA Agreement shall, by way of derogation from Article 1(3), restrict or prohibit the free flow of personal data to an EFTA State which does not apply the measures contained in an implementing act adopted pursuant to paragraph 5 of this Article in the same way as these measures prevent the transfer of personal data to a third country or an international organisation.”.

- (f) Whenever the EU enters into consultations with third countries or international organisations with the aim of adopting an adequacy decision pursuant to Article 45, the EFTA States shall be kept duly informed. In cases where the third country or the international organisation undertakes specific obligations regarding the processing of personal data from the member states, the EU will take into account the situation of EFTA States and discuss with third countries or international organisation possible mechanisms for subsequent possible application by the EFTA States.
- (g) In Article 46(2)(d) the following shall be added:

“The supervisory authorities of the EFTA States shall have the same right as EU supervisory authorities to submit standard data protection clauses to the Commission for approval pursuant to the examination procedure referred to in Article 93(2).”.
- (h) In Article 46, as regards the EFTA States, the following paragraph shall be inserted after paragraph 2:

“2a. Pending a decision by the EEA Joint Committee to incorporate into the EEA Agreement an implementing act, the appropriate safeguards referred to in paragraph 1 may be provided for by standard data protection clauses referred to in points (c) and (d) of Article 46(2) where an EFTA State applies the measures contained therein.

Each EFTA State shall decide and inform the Commission and the EFTA Surveillance Authority, before the entry into force of implementing acts adopted pursuant to points (c) and (d) of Article 46(2), whether it, pending a decision by the EEA Joint Committee to incorporate the implementing act into the EEA Agreement, will apply the measures contained therein at the same time as the EU Member States or not. In the absence of a decision to the contrary, each EFTA State shall apply the measures contained in an implementing act adopted pursuant to points (c) and (d) of Article 46(2) at the same time as the EU Member States.

Notwithstanding Article 102 of the Agreement, if an agreement on the incorporation into the EEA Agreement of an implementing act adopted pursuant to points (c) and (d) of Article 46(2) cannot be reached in the EEA Joint Committee within twelve months of the entry into force of that implementing act, any EFTA State may discontinue the application of such measures and shall inform the Commission and the EFTA Surveillance Authority thereof without delay.”.

- (i) In Article 58(4), as regards the EFTA States, the words “in accordance with the Charter” shall not apply.
- (j) In Article 59, the words “, to the EFTA Surveillance Authority” shall be inserted after the words “to the Commission”.
- (k) The EFTA Surveillance Authority shall have the right to participate in the meetings of the Board without voting right. The EFTA Surveillance Authority shall designate a representative.
- (l) Where it is relevant to the exercise of its functions under Article 109 of this Agreement, the EFTA Surveillance Authority shall have the right to request advice or opinions from, and to communicate matters to, the Board pursuant to Articles 63, 64(2), 65(1)(c) and 70(1)(e). In Articles 63, 64(2), 65(1)(c), and 70(1)(e), the words “and, where relevant, the EFTA Surveillance Authority” shall be added after the words “the Commission”.
- (m) The Chair of the Board, or the secretariat, shall communicate to the EFTA Surveillance Authority the activities of the Board, where relevant pursuant to Articles 64(5)(a) and (b), 65(5), and 75(6)(b). In Articles 64(5)(a) and (b), 65(5), and 75(6)(b), the words “and, where relevant, the EFTA Surveillance Authority” shall be added after the words “the Commission”.

Where it is relevant to the exercise of its functions under Article 109 of this Agreement, the EFTA Surveillance Authority shall have the right to receive information from a supervisory authority of one of EFTA States concerned pursuant to Article 66(1). In Article 66(1) the words “and, where relevant, the EFTA Surveillance Authority” shall be added after the words “the Commission”.

- (n) In Article 71(1), the words “, to the Standing Committee of the EFTA States, to the EFTA Surveillance Authority” shall be inserted after the words “to the Council”.
- (o) In Article 73(1), the following sentence shall be added:

“The EFTA States’ members of the Board shall not be eligible to be elected as chair or deputy chairs.”.

Article 2

The text of point 13 (Working Party on the Protection of Individuals with regard to the Processing of Personal Data) of Protocol 37 to the EEA Agreement shall be deleted.

Article 3

The texts of Regulation (EU) 2016/679 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 4

This Decision shall enter into force on the day following the last notification under Article 103(1) of the EEA Agreement (*).

Article 5

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

For the EEA Joint Committee

The President

The Secretaries to the EEA Joint Committee

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

Joint Declaration by the Contracting Parties to Decision of the Joint Committee No XX of DD.MM.YY incorporating Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) into the EEA Agreement

Bearing in mind the two pillar system of the EEA Agreement and with regard to the direct binding effect of decisions of the European Data Protection Board towards national supervisory authorities in the EEA EFTA States the Contracting Parties:

- take note of the fact that decisions of the European Data Protection Board are directed at national supervisory authorities,
 - recognise that this solution does not create a precedence for future adaptations of EU acts to be incorporated into the EEA Agreement.
-

COMMISSION IMPLEMENTING DECISION (EU) 2018/894**of 21 June 2018****amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States***(notified under document C(2018) 4007)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2017/247 ⁽³⁾ was adopted following outbreaks of highly pathogenic avian influenza of subtype H5 in a number of Member States ('the concerned Member States'), and the establishment of protection and surveillance zones by the competent authority of the concerned Member States in accordance with Article 16(1) of Council Directive 2005/94/EC ⁽⁴⁾.
- (2) Implementing Decision (EU) 2017/247 provides that the protection and surveillance zones established by the competent authorities of the concerned Member States in accordance with Directive 2005/94/EC are to comprise at least the areas listed as protection and surveillance zones in the Annex to that Implementing Decision. Implementing Decision (EU) 2017/247 also lays down that the measures to be applied in the protection and surveillance zones, as provided for in Article 29(1) and Article 31 of Directive 2005/94/EC, are to be maintained until at least the dates for those zones set out in the Annex to that Implementing Decision.
- (3) Since the date of its adoption, Implementing Decision (EU) 2017/247 has been amended several times to take account of developments in the epidemiological situation in the Union as regards avian influenza. In particular, Implementing Decision (EU) 2017/247 was amended by Commission Implementing Decision (EU) 2017/696 ⁽⁵⁾ in order to lay down rules regarding the dispatch of consignments of day-old chicks from the areas listed in the Annex to Implementing Decision (EU) 2017/247. That amendment took into account the fact that day-old chicks pose a very low risk for the spread of highly pathogenic avian influenza compared to other poultry commodities.
- (4) Implementing Decision (EU) 2017/247 was also subsequently amended by Commission Implementing Decision (EU) 2017/1841 ⁽⁶⁾ in order to strengthen the disease control measures applicable where there is an increased risk for the spread of highly pathogenic avian influenza. Consequently, Implementing Decision (EU) 2017/247 now provides for the establishment at Union level of further restricted zones in the concerned Member States, as referred to in Article 16(4) of Directive 2005/94/EC, following an outbreak or outbreaks of highly pathogenic avian influenza, and the duration of the measures to be applied therein. Implementing Decision (EU) 2017/247 now also lays down rules for the dispatch of live poultry, day-old chicks and hatching eggs from the further restricted zones to other Member States, subject to certain conditions.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ Commission Implementing Decision (EU) 2017/247 of 9 February 2017 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 36, 11.2.2017, p. 62).

⁽⁴⁾ Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

⁽⁵⁾ Commission Implementing Decision (EU) 2017/696 of 11 April 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 101, 13.4.2017, p. 80).

⁽⁶⁾ Commission Implementing Decision (EU) 2017/1841 of 10 October 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 261, 11.10.2017, p. 26).

- (5) In addition, the Annex to Implementing Decision (EU) 2017/247 has been amended numerous times, mainly to take account of changes in the boundaries of the protection and surveillance zones established by the concerned Member States in accordance with Directive 2005/94/EC.
- (6) The Annex to Implementing Decision (EU) 2017/247 was last amended by Commission Implementing Decision (EU) 2018/821 ⁽¹⁾, following the notification by Bulgaria of a new outbreak of highly pathogenic avian influenza of subtype H5N8 in a poultry holding in the Dobrich region of that Member State. Bulgaria also notified the Commission that it had duly taken the necessary measures required in accordance with Directive 2005/94/EC following this new outbreak, including the establishment of protection and surveillance zones around the infected poultry holding.
- (7) Since the date of the last amendment made to Implementing Decision (EU) 2017/247 by Implementing Decision (EU) 2018/821, Bulgaria has notified the Commission of a further outbreak of highly pathogenic avian influenza of subtype H5N8 in a poultry holding again in the Dobrich region of that Member State.
- (8) Bulgaria has also notified the Commission that it has taken the necessary measures required in accordance with Directive 2005/94/EC following that new outbreak, including the establishment of protection and surveillance zones around the infected poultry holding in that Member State.
- (9) The Commission has examined those measures in collaboration with Bulgaria, and the Commission is satisfied that the boundaries of the protection and surveillance zones, established by the competent authority of Bulgaria, are at a sufficient distance to the poultry holding where the new outbreak was confirmed.
- (10) In order to prevent any unnecessary disturbance to trade within the Union, and to avoid unjustified barriers to trade being imposed by third countries, it is necessary to rapidly describe at Union level, in collaboration with Bulgaria, the protection and surveillance zones established in Bulgaria, in accordance with Directive 2005/94/EC, following the new outbreak of highly pathogenic avian influenza in that Member State.
- (11) Implementing Decision (EU) 2017/247 should therefore be updated to take account of the up-to-date epidemiological situation in Bulgaria, as regards highly pathogenic avian influenza. In particular, the newly established protection and surveillance zones in Bulgaria, now subject to restrictions in accordance with Directive 2005/94/EC, should be listed in the Annex to Implementing Decision (EU) 2017/247.
- (12) The Annex to Implementing Decision (EU) 2017/247 should therefore be amended to update regionalisation at Union level in order to include the protection and surveillance zones established in Bulgaria, in accordance with Directive 2005/94/EC, following the new outbreak of highly pathogenic avian influenza in that Member State, and the duration of the restrictions applicable therein.
- (13) Implementing Decision (EU) 2017/247 should therefore be amended accordingly.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2017/247 is amended in accordance with the Annex to this Decision.

⁽¹⁾ Commission Implementing Decision (EU) 2018/821 of 1 June 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 137, 4.6.2018, p. 35).

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 June 2018.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

The Annex to Implementing Decision (EU) 2017/247 is amended as follows:

(1) in Part A, the entry for Bulgaria is replaced by the following:

Member State: Bulgaria

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
Dobrich region:	
Municipality of Dobrich	21.7.2018'
— Donchevo	
— Bogdan	
— Opanets	

(2) in Part B, the entry for Bulgaria is replaced by the following:

Member State: Bulgaria

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
Dobrich Region:	
Municipality of Dobrich:	From 18.6.2018 to 30.7.2018
— Stefanovo	
— Donchevo	21.7.2018 to 30.7.2018
— Bogdan	
— Opanets	
Municipality of Dobrich:	26.6.2018
— Pchelino	
— Popgrigorovo	
— Slaveevo	
— Sokolnik	
— Stozher	
Municipality of Dobrich:	30.7.2018'
— Stefanovo	
— Branishte	
— Dobrich	
— Dolina	
— Draganovo	
— Novo Botevo	
— Odrintsi	
— Plachidol	
— Vedrina	
— Vrachantsi	
— Zlatia	
— Malka Smolnitsa	

