

Official Journal of the European Union

L 94



English edition

Legislation

Volume 63

27 March 2020

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Delegated Regulation (EU) 2020/445 of 15 October 2019 amending Annex II to Regulation (EU) No 516/2014 of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund** 1
- ★ **Commission Delegated Regulation (EU) 2020/446 of 15 October 2019 amending Annex II to Regulation (EU) No 515/2014 of the European Parliament and of the Council establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa** 3
- ★ **Commission Delegated Regulation (EU) 2020/447 of 16 December 2019 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of criteria for establishing the arrangements to adequately mitigate counterparty credit risk associated with covered bonds and securitisations, and amending Delegated Regulations (EU) 2015/2205 and (EU) 2016/1178 ⁽¹⁾** 5
- ★ **Commission Delegated Regulation (EU) 2020/448 of 17 December 2019 amending Delegated Regulation (EU) 2016/2251 as regards the specification of the treatment of OTC derivatives in connection with certain simple, transparent and standardised securitisations for hedging purposes ⁽¹⁾** 8
- ★ **Commission Implementing Regulation (EU) 2020/449 of 25 March 2020 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin** 11

DECISIONS

- ★ **Commission Decision (EU) 2020/450 of 22 January 2020 on the aid scheme SA.29150 – 2010/C (ex 2010/NN) implemented by Germany on the fiscal carry-forward of losses in case of restructuring of companies in difficulty (*Sanierungsklausel*) (notified under document C(2020) 254) ⁽¹⁾** 14

⁽¹⁾ Text with EEA relevance.

EN

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

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

★ Commission Implementing Decision (EU) 2020/451 of 26 March 2020 amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States (<i>notified under document C(2020) 1985</i>) ⁽¹⁾	23
---	----

RULES OF PROCEDURE

★ Decision of the Management Board of the European Union Intellectual Property Office of 26 March 2020 on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the European Union Intellectual Property Office	46
---	----

⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2020/445

of 15 October 2019

amending Annex II to Regulation (EU) No 516/2014 of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC ⁽¹⁾, and in particular Article 16(2) thereof,

Whereas:

- (1) In the context of the mid-term review referred to in Article 15 of Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽²⁾, additional funding needs of the Member States were identified in the area of asylum, migration and integration.
- (2) The mid-term review identified the need to provide adequate financial support in relation to reception and accommodation and detention facilities, and respective services, for applicants for international protection or for third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry or stay in a Member State, as well as for housing support for beneficiaries of international protection.
- (3) Annex II to Regulation (EU) No 516/2014 lists eight specific actions for Member States to receive additional funding, out of which six are joint actions involving several Member States.
- (4) The policy developments and the funding needs detected in the context of the mid-term review cannot be adequately tackled through the current list of specific actions. Therefore, amending that list is the best way to meet the needs identified within the objectives of the Asylum, Migration and Integration Fund.
- (5) The new specific action being added to Annex II to Regulation (EU) No 516/2014 will contribute to the efficient management of the migration flows. It is in line with the specific objective of that Regulation, as referred to in its Article 3(2)(d), which is to enhance solidarity between the Member States.
- (6) The addition of a new specific action that reflects the recent policy developments and funding needs of the Member States will generate significant added value as it will contribute to the mitigation of the pressure on those most affected by migration and asylum flows and, thus, on the Union as a whole.
- (7) In order to allow for the prompt application of this specific action, in view of the urgent funding needs identified, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (8) Regulation (EU) No 516/2014 should therefore be amended accordingly,

⁽¹⁾ OJ L 150, 20.5.2014, p. 168.

⁽²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II to Regulation (EU) No 516/2014, the following point 9 is added:

- ‘9. In Member States facing high or disproportionate migratory pressure, or both, the establishment, development and operation of adequate reception and accommodation and detention facilities, and respective services, for applicants for international protection or third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry or stay, or both, as well as housing support for beneficiaries of international protection.’

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 15 October 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2020/446**of 15 October 2019****amending Annex II to Regulation (EU) No 515/2014 of the European Parliament and of the Council establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC ⁽¹⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) In the context of the mid-term review referred to in Article 15 of Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽²⁾, additional funding needs of the Member States were identified in the area of border management.
- (2) The mid-term review identified the need to provide adequate financial support to border control activities, in particular in the hotspots areas as defined in Article 2(10) of Regulation (EU) 2016/1624 of the European Parliament and of the Council ⁽³⁾, as well as in other border areas facing similar existing or potential high and disproportionate migratory pressure.
- (3) Annex II to Regulation (EU) No 515/2014 lists two specific actions for Member States to receive additional funding.
- (4) The funding of actions aiming at reinforcing border control capacities and implementing the hotspot approach, or similar, cannot be adequately channelled through the current list of specific actions. Therefore, amending that list is the best way to meet the needs identified within the objectives of Internal Security Fund – Borders and Visa.
- (5) The new specific action being added to Annex II to Regulation (EU) No 515/2014 will contribute to an effective level of control of the external borders of the Union. It is in line with the specific objective of that Regulation, as referred to in its Article 3(2)(b), which is to support integrated border management, facilitating access to international protection for those needing it.
- (6) The addition of a new specific action that reflects the recent policy developments and funding needs of the Member States will generate significant added value as it will contribute to the mitigation of the pressure on those most affected by migration and asylum flows and, thus, on the Union as a whole.
- (7) In order to allow for the prompt application of this specific action, in view of the urgent funding needs identified, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (8) Regulation (EU) No 515/2014 should therefore be amended accordingly,

⁽¹⁾ OJ L 150, 20.5.2014, p. 143.

⁽²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

⁽³⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II to Regulation (EU) No 515/2014, the following point 3 is added:

- ‘3. Border control activities such as border checks and border surveillance measures in areas facing currently or potentially high or disproportionate migratory pressure, or both, including activities related to the establishment, development and operation of hotspot areas, as defined in Article 2(10) of Regulation (EU) 2016/1624 of the European Parliament and of the Council (*), as well as, where necessary, support to border management activities in third countries.

(*) Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).’

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 15 October 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2020/447**of 16 December 2019****supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of criteria for establishing the arrangements to adequately mitigate counterparty credit risk associated with covered bonds and securitisations, and amending Delegated Regulations (EU) 2015/2205 and (EU) 2016/1178****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 4(6) thereof,

Whereas:

- (1) Regulation (EU) 2017/2402 of the European Parliament and the Council ⁽²⁾ amended Regulation (EU) No 648/2012 to insert into that Regulation certain conditions under which OTC derivative contracts concluded by covered bond entities in connection with covered bonds, and OTC derivative contracts concluded by securitisation special purpose entities in connection with securitisations, can be exempted from the clearing obligation.
- (2) Commission Delegated Regulations (EU) 2015/2205 ⁽³⁾ and 2016/1178 ⁽⁴⁾ already contain a number of conditions under which OTC derivative contracts concluded by a covered bond entity in connection with a covered bond can be excluded from the clearing obligation.
- (3) There is a degree of substitutability between OTC derivative contracts concluded by covered bond entities in connection with covered bonds, on the one hand, and OTC derivative contracts concluded by securitisation special purpose entities in connection with securitisations, on the other hand. In order to avoid potential distortion or arbitrage, their treatment toward the clearing obligation should be consistent.
- (4) It is therefore appropriate, also in the light of the amendment to Regulation (EU) No 648/2012 by Regulation (EU) 2017/2402, to remove from Delegated Regulations (EU) 2015/2205 and (EU) 2016/1178 all conditions under which OTC derivative contracts concluded by a covered bond entity in connection with a covered bond can be excluded from the clearing obligation, and to insert those conditions in a new Delegated Regulation which also contains conditions under which OTC derivative contracts concluded by a securitisation special purpose entity in connection with a securitisation can be excluded from that clearing obligation.
- (5) Delegated Regulation (EU) 2015/2205 and Delegated Regulation (EU) 2016/1178 should therefore be amended accordingly.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

⁽³⁾ Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 314, 1.12.2015, p. 13.).

⁽⁴⁾ Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 195, 20.7.2016, p. 3.)

- (6) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority to the European Commission.
- (7) The European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and have analysed the potential related costs and benefits. The European Supervisory Authorities have also requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁵⁾, the opinion of the Insurance and Reinsurance Stakeholder Group and the Occupational Pensions Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽⁶⁾, and the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁷⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Criteria to determine which arrangements under covered bonds mitigate counterparty credit risk

Arrangements under covered bonds shall be considered to adequately mitigate counterparty credit risk, where OTC derivative contracts concluded by covered bond entities in connection with covered bonds comply with all of the following criteria:

- (a) those contracts are registered or recorded in the cover pool of the covered bond in accordance with national legislation on covered bonds;
- (b) those contracts are not terminated in case of resolution or insolvency of the covered bond issuer or the cover pool;
- (c) the counterparty to the OTC derivative contract concluded with covered bond issuers or with cover pools for covered bonds ranks at least *pari passu* with the covered bond holders, except where the counterparty to the OTC derivative contract concluded with covered bond issuers or with cover pools for covered bonds is the defaulting or the affected party, or waives the *pari passu* rank;
- (d) the covered bond is subject to a regulatory collateralisation requirement of at least 102 %.

Article 2

Criteria to determine which arrangements under securitisations mitigate counterparty credit risk

Arrangements under securitisations shall be considered to adequately mitigate counterparty credit risk where OTC derivative contracts concluded by securitisation special purpose entities in connection with securitisations satisfy all of the following criteria:

- (a) the counterparty to the OTC derivative concluded with the securitisation special purpose entity in connection with the securitisation ranks at least *pari passu* with the holders of the most senior securitisation tranche except where the counterparty to the OTC derivative concluded with the securitisation special purpose entity in connection to the securitisation is the defaulting or the affected party;
- (b) the securitisation special purpose entity in connection with the securitisation with which the OTC derivatives contract is associated is subject, on an ongoing basis, to a level of credit enhancement of the most senior securitisation note of at least 2 % of the outstanding notes.

⁽⁵⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁽⁶⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁽⁷⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 3***Amendment to Delegated Regulation (EU) 2015/2205**

Article 1(2) of Delegated Regulation (EU) 2015/2205 is deleted.

*Article 4***Amendment to Delegated Regulation (EU) 2016/1178**

Article 1(2) of Delegated Regulation (EU) 2016/1178 is deleted.

*Article 5***Entry into force**

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

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

Done at Brussels, 16 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2020/448**of 17 December 2019****amending Delegated Regulation (EU) 2016/2251 as regards the specification of the treatment of OTC derivatives in connection with certain simple, transparent and standardised securitisations for hedging purposes****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 11(15) thereof,

Whereas:

- (1) Article 11(15) of Regulation (EU) No 648/2012 has been amended by Article 42(3) of Regulation (EU) 2017/2402 of the European Parliament and of the Council ⁽²⁾. That amendment was made to ensure that, with regard to the margin requirements for non-centrally cleared OTC derivatives, derivatives associated with covered bonds and derivatives associated with securitisations are treated in the same manner. Since Commission Delegated Regulation (EU) 2016/2251 ⁽³⁾ is based on Article 11(15) of Regulation (EU) No 648/2012, that Delegated Regulation should be amended to reflect the amendment made to Article 11(15) of Regulation (EU) No 648/2012 and thus to include rules on the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty concluded by a securitisation special purpose entity in connection with a securitisation.
- (2) In accordance with the amended Article 11(15) of Regulation (EU) No 648/2012, such rules on the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty and concluded by a securitisation special purpose entity in connection with a securitisation should take account of the impediments faced by those securitisation special purpose entities in providing collateral. Because securitisation special purpose entities are usually structured to generate little excess of liquidity, they have less assets to be used for the exchange of collateral. That impediment prevents securitisation special purpose entities from exchanging collateral in a way that fully complies with the requirements of Delegated Regulation (EU) 2016/2251. Therefore, under a specific set of conditions securitisation special purpose entities in connection with a Simple, Transparent and Standardised ('STS') securitisation should not be required to post collateral. This should allow securitisation special purpose entities in connection with an STS securitisation some flexibility, while ensuring that the risks for their counterparties are limited. However, there are no constraints on securitisation special purpose entities in connection with an STS securitisation to collect collateral from their counterparties and to subsequently return it when due. Counterparties of securitisation special purpose entities in connection with an STS securitisation are therefore required to post variation margin in cash. They should have the right to receive back part or all of it, while securitisation special purpose entities should only be required to collect the variation margin received in cash and to post variation margin for the amount in cash received. This is in line with recital 41 of Regulation (EU) 2017/2402 which refers to the need to ensure consistency in treatment between derivatives associated with covered bonds and derivatives associated with securitisations, with regard to the clearing obligation and to the margin requirements on non-centrally cleared OTC derivatives.
- (3) Delegated Regulation (EU) 2016/2251 should therefore be amended accordingly,
- (4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

⁽³⁾ Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (OJ L 340, 15.12.2016, p. 9).

- (5) The European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁴⁾, the opinion of the Insurance and Reinsurance Stakeholder Group and the Occupational Pensions Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽⁵⁾, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2016/2251

In Delegated Regulation (EU) 2016/2251, the following Article 30a is inserted:

‘Article 30a

Treatment of derivatives in connection with securitisations for hedging purposes

1. By way of derogation from Article 2(2) and where the conditions set out in paragraph 2 of this Article are met, counterparties may provide in their risk management procedures the following in connection with OTC derivatives contracts that are concluded by a securitisation special purpose entity in connection with a securitisation as defined in point (1) of Article 2 of Regulation (EU) 2017/2402 of the European Parliament and of the Council ^(*) and meeting the conditions of Article 4(5) of Regulation (EU) No 648/2012:

- (a) that variation margin is not posted by the securitisation special purpose entity but is collected from its counterparty in cash and returned to its counterparty when due;
- (b) that initial margin is not posted or collected.

2. Paragraph 1 shall apply where all of the following conditions are met:

- (a) the counterparty to the OTC derivative concluded with the securitisation special purpose entity in connection with the securitisation ranks at least *pari passu* with the holders of the most senior securitisation note, provided that counterparty is neither the defaulting nor the affected party;
- (b) the securitisation special purpose entity for the securitisation to which the OTC derivatives contract is associated is subject to a level of credit enhancement of the most senior securitisation note of at least 2 % of the outstanding notes on an ongoing basis;
- (c) the netting set does not include OTC derivative contracts unrelated to the securitisation.

(*) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).’

⁽⁴⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁽⁵⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁽⁶⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 2***Entry into force**

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

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2020/449**of 25 March 2020****amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin**

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⁾, and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 ⁽²⁾, and in particular Article 5(6)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽³⁾ lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.
- (3) Regulation (EC) No 1484/95 should therefore be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 150, 20.5.2014, p. 1.

⁽³⁾ Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

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

Done at Brussels, 25 March 2020.

*For the Commission,
On behalf of the President,
María Ángeles BENÍTEZ SALAS
Acting Director-General
Directorate-General for Agriculture and Rural
Development*

ANNEX

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security under Article 3 (EUR/100 kg)	Origin ⁽¹⁾
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65% chickens”, frozen	129,1	0	AR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	221,8 198,3 267,8 222,3	24 31 10 23	AR BR CL TH
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	310,6	0	BR

(¹) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7).’

DECISIONS

COMMISSION DECISION (EU) 2020/450

of 22 January 2020

on the aid scheme SA.29150 – 2010/C (ex 2010/NN) implemented by Germany on the fiscal carry-forward of losses in case of restructuring of companies in difficulty (*Sanierungsklausel*)

(notified under document C(2020) 254)

(Only the German text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provision cited above ⁽¹⁾,

Whereas:

1. PROCEDURE

- (1) By letters dated 5 August 2009 and 30 September 2009, the Commission asked Germany for information about § 8c of the corporate income tax act (*Körperschaftsteuergesetz*, 'KStG'). The German authorities replied to these requests by letters of 20 August 2009 and 5 November 2009. By decision of 24 February 2010 ('the Opening Decision'), the Commission opened the formal investigation procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) in respect of § 8c(1a) KStG (*Sanierungsklausel*).
- (2) The Opening Decision was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited Germany and interested parties to submit comments.
- (3) The German authorities submitted their comments by letter of 9 April 2010.
- (4) Two meetings with the German authorities were held in Brussels on 9 April 2010 and on 3 June 2010. The German authorities submitted further information on 2 July 2010. The Commission did not receive any comments from interested parties.
- (5) On 26 January 2011, the Commission adopted Decision 2011/527/EU ⁽³⁾ ('the 2011 Decision') in which it considered that § 8c(1a) KStG (*Sanierungsklausel*) constitutes State aid, which was unlawfully put into effect by Germany in breach of Article 108(3) TFEU. The Commission also concluded that the aid granted under § 8c(1a) KStG was incompatible with the internal market, in particular to the extent that it could not be found compatible based on point (b) of Article 107(3) TFEU, as interpreted by the Temporary Framework ⁽⁴⁾ ⁽⁵⁾, and ordered recovery of the incompatible aid.

⁽¹⁾ OJ C 90, 8.4.2010, p. 8.

⁽²⁾ OJ C 90, 8.4.2010, p. 8.

⁽³⁾ Commission Decision 2011/527/EU of 26 January 2011 on State aid C 7/10 (ex CP 250/09 and NN 5/10) implemented by Germany — Scheme for the carry-forward of tax losses in the case of restructuring of companies in difficulty (*Sanierungsklausel*) (OJ L 235, 10.9.2011, p. 26).

⁽⁴⁾ Communication from the Commission — Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis (OJ C 83, 7.4.2009, p. 1).

⁽⁵⁾ Under the Temporary Framework, aid is deemed compatible provided that its amount does not exceed EUR 500 000, the beneficiary has not been an undertaking in difficulty on 1 July 2008 and all the other conditions set out in point 4.2.2 of the Temporary Framework are met.

- (6) After the adoption of the 2011 Decision, Germany and third parties lodged actions for annulment of the 2011 Decision ⁽⁶⁾. On 4 February 2016, the General Court dismissed the arguments of the applicants and confirmed the 2011 Decision ⁽⁷⁾.
- (7) Germany and two potential beneficiaries (Heitkamp BauHolding GmbH and GFKL Financial Services AG) appealed the judgments of the General Court. On 28 June 2018, the Court of Justice annulled the judgments of the General Court and the 2011 Decision ⁽⁸⁾. The Court of Justice found that the Commission erred in the selectivity analysis by considering only the rule prohibiting the carry-forward of losses in case of change in the company's shareholding structure (§ 8c(1) KStG) to be the reference framework and excluding from it the general rule of loss carry-forward.

2. DETAILED DESCRIPTION OF THE MEASURE/AID

2.1. Background

- (8) Corporate taxation in Germany is based mainly on the income tax act (*Einkommensteuergesetz*, ('EStG')) and the KStG. § 10d(2) EStG foresees the possibility to carry forward losses incurred in a tax year, meaning that, in line with the ability-to-pay principle, taxable income in future tax years may be reduced by setting off past losses up to an upper limit of EUR 1 million per year. According to § 8(1) KStG, this possibility to carry forward losses also applies to entities subject to corporate income tax.
- (9) According to the German authorities, providing such carry-forward of losses also triggered trade in empty-shell companies, which had long ceased any economic activity, but which still retained losses that had been carried forward.
- (10) As a reaction to the trade in empty-shell companies, the German Parliament restricted in 1997 the possibility to carry forward losses, by introducing in § 8(4) KStG the so-called '*Mantelkaufregelung*' ('coat-buying rule', the coat being the empty-shell company). This rule restricted the carrying forward of losses to those corporate entities that were legally and economically identical with the entity that incurred the losses. The rule did not contain a definition of 'economically identical', but relied on one negative and two positive elements:
- there is no economic identity if more than half of the shares of the corporate entity are transferred and the entity then continues its economic activity or starts it anew, with predominantly new assets,
 - there is, on the contrary, economic identity if the injection of new assets solely has the purpose of restructuring the loss-making entity and if the activity which had caused the unrelieved loss carry-forward, continues in a comparable manner for the following 5 years,
 - there is also economic identity if, rather than injecting new assets, the acquiring entity covers the losses that have accrued at the loss-making entity.
- (11) The last two examples were commonly referred to as '*Sanierungsklausel*' (clause allowing for restructuring of companies in difficulty).
- (12) § 8(4) KStG was repealed as of 1 January 2008 by the 2008 act to reform company taxation (*Unternehmensteuerreformgesetz 2008*) ⁽⁹⁾.

⁽⁶⁾ 16 actions for annulment were lodged, one by Germany (T-205/11) and 15 by potential beneficiaries. With the exception of T-287/11 and T-620/11, all actions were stayed.

⁽⁷⁾ Judgment of the General Court of 4 February 2016, *Heitkamp BauHolding v Commission*, T-287/11, ECLI:EU:T:2016:60; Judgment of the General Court of 4 February 2016, *GFKL Financial Services v Commission*, T-620/11, ECLI:EU:T:2016:59.

⁽⁸⁾ Judgment of the Court (Second Chamber) of 28 June 2018, *Andres (faillite Heitkamp BauHolding) v Commission*, C-203/16 P, ECLI:EU:C:2018:505; judgment of the Court (Second Chamber) of 28 June 2018, *Germany v Commission*, C-208/16 P, ECLI:EU:C:2018:506; judgment of the Court (Second Chamber) of 28 June 2018, *Germany v Commission*, C-209/16 P, ECLI:EU:C:2018:507; judgment of the Court (Second Chamber) of 28 June 2018, *Lowell Financial Services v Commission*, C-219/16 P, ECLI:EU:C:2018:508.

⁽⁹⁾ *Unternehmensteuerreformgesetz 2008*, 14 August 2007, Federal Law Gazette (*Bundesgesetzblatt* ('BGBl.')) 2007, Part I, No 40, p. 1912.

- (13) The same act introduced the new § 8c(1) KStG, which limited the possibility to carry forward losses in case of changes in the shareholding of a corporate entity more than § 8(4) KStG had done previously. Under the new rule:
- unused losses are forfeited in total if more than 50 % of the share capital, membership rights, ownership rights or voting rights are transferred to an acquirer,
 - unused losses are forfeited pro rata if within a period of five years more than 25 % and up to 50 % of the share capital, membership rights, ownership rights or voting rights are transferred.
- (14) The new rule initially did not provide any exception for the companies being simultaneously subject to a significant change in ownership and in the process of restructuring.
- (15) According to the explanatory memorandum adopted by the German Parliament together with the *Unternehmenssteuerreformgesetz 2008*, the purpose of replacing § 8(4) KStG by the new § 8c(1) KStG was to simplify the rules (it transpires from the explanatory memorandum that the practical application of § 8(4) KStG had led to many difficult legal questions) and to better target the anti-abuse measure ⁽¹⁰⁾. The German Parliament was aware of the fact that as a result of the reform in case of a restructuring of an undertaking in difficulties, which implied a change in ownership, the carry-forward of losses would no longer be possible. It considered that this was acceptable, as the tax authorities could waive tax debts in such a situation based on considerations of equity also without an explicit provision in the KStG ⁽¹¹⁾.

2.2. The measure

- (16) In June 2009, § 8c KStG was amended by inserting a new provision (§ 8c(1a) KStG) concerning the preservation of loss carry-forward in case of acquisition of companies in difficulty in view of their restructuring. This amendment formed part of the Citizens' Relief – Health Insurance – Act (*Bürgerentlastungsgesetz Krankenversicherung*) ⁽¹²⁾. The new provision generally is again referred to as *Sanierungsklausel* (or new (*neue*) *Sanierungsklausel* in order to distinguish it from its predecessor in § 8(4) KStG).
- (17) Under § 8c(1a) KStG, a corporate entity is allowed to carry forward losses despite changes in its shareholding that fulfil the conditions of § 8c(1) KStG, if the following requirements are met:
- the acquisition serves the purpose of restructuring ('*Sanierung*') of the corporate entity ⁽¹³⁾,
 - the company is illiquid or over-indebted or risks being illiquid or over-indebted at the time of acquisition ⁽¹⁴⁾,
 - the essential business structures of the company are preserved by way of:
 - the corporate entity honours an agreement between management and work council ('*Betriebsvereinbarung*') on the preservation of jobs, or
 - preservation of 80 % of the jobs (in terms of overall remuneration) for five years following the acquisition, or
 - injections of significant business assets ('*wesentliches Betriebsvermögen*') or write-off of debts which still have an economic value within 12 months; business assets are material if they amount to at least 25 % of the assets of the previous financial year; any transfer back to the acquiring entity within the first three years are deducted,

⁽¹⁰⁾ German Parliament's printed papers series (*Bundestagsdrucksache*) 16/4841, p. 74.

⁽¹¹⁾ *Bundestagsdrucksache* 16/4841, p. 76, referring to a circular of the Federal Ministry of Finance dated 27 March 2003 (Federal Tax Gazette (*Bundessteuerblatt*) ('BStBl.') 2003, Part I, p. 240).

⁽¹²⁾ *Gesetz zur verbesserten steuerlichen Berücksichtigung von Vorsorgeaufwendungen (Bürgerentlastungsgesetz Krankenversicherung)*, 16. June 2009, BGBl. 2009, Part I, No 43, p. 1959.

⁽¹³⁾ *Sanierung* has the purpose of reorganising a company. Reorganisation is a measure that intends to avoid or overcome illiquidity (*Zahlungsunfähigkeit*) or over-indebtedness (*Überschuldung*). Accordingly, only companies that are or are to be illiquid or over-indebted at the time when the change in the shareholding takes place, are eligible.

⁽¹⁴⁾ The terms 'illiquidity', 'risk of illiquidity' and 'over-indebtedness' are defined in German insolvency legislation (*Insolvenzordnung* ('InsO'), 5 October 1994, BGBl. 1994, Part I, No 70, p. 2866): 'Illiquidity' (§ 17 InsO): if the debtor is not able to meet due payment obligations and has ceased payments. 'Risk of illiquidity' (§ 18 InsO): If the debtor is likely not to be able to meet future payment obligations at their due date. 'Over-indebtedness' (§ 19 InsO): If the debtor company's assets do not cover its existing liabilities; 'over-indebtedness' is however excluded if the debtor company has a positive prognosis for it to continue to exist.

- the company does not change sector of activity for five years following the acquisition,
- the company had not ceased operation at the time of the acquisition.

- (18) § 8c(1a) KStG entered into force on 10 July 2009 and was applicable retroactively as of 1 January 2008.
- (19) Initially, § 8c(1a) KStG was introduced as a temporal measure applicable until 31 December 2009. However, on 22 December 2009, the German Parliament adopted, as part of the act on the acceleration of growth of 22 December 2009 (*Wachstumsbeschleunigungsgesetz*) a provision that deleted the corresponding sunset clause from the KStG ⁽¹⁵⁾.
- (20) It is to be noted that the losses that are carried forward can only be offset against benefits of the company that is being restructured. The acquiring company cannot offset these losses against its own benefits. This holds true even if the acquiring company consolidates its tax liabilities at the level of the group, as point (1) of the first sentence of § 15 KStG prohibits loss carry-forward if an entity (*Organgesellschaft*) forms part of a consolidated entity (*Organschaft*) ⁽¹⁶⁾. However, German corporate tax law provides that such losses are not lost; they are merely 'frozen' at the level of the *Organgesellschaft* and may be used once the company is not anymore consolidated. There is no time limit for the carry-forward of these 'frozen' losses.
- (21) The acquiring company benefits indirectly from § 8c(1a) KStG, as, once the restructuring process is successfully completed, the provision reduces the tax burden of the restructured entity. Furthermore, the acquiring company can merge part or the entirety of its activities into the acquired company and use in this manner the losses that have been carried forward.

3. THE OPENING DECISION

- (22) By letter dated 24 February 2010, the Commission informed the German authorities that it had decided to initiate the procedure laid down in Article 108(2) TFEU in respect of the above described measure granted under § 8c(1a) KStG.
- (23) In its Opening Decision, the Commission considered that § 8c(1a) KStG differentiated between financially sound companies that are loss-making and companies that are (potentially) illiquid or over-indebted, in benefitting the latter. The Commission regarded the measure in its preliminary view to be selective and to entail State aid, as also the other conditions of Article 107(1) TFEU appeared to be fulfilled. Finally, the Commission expressed its doubts about the compatibility of the measure with point (b) of Article 107(3) TFEU, as interpreted by the Temporary Framework, and with point (c) of Article 107(3) TFEU, as interpreted by the (then applicable) Rescue and Restructuring Guidelines ⁽¹⁷⁾ and the (then applicable) Regional Aid Guidelines ⁽¹⁸⁾.
- (24) After the opening of the formal investigation procedure, the German Federal Ministry of Finance instructed the tax authorities in charge of tax collection to cease applying § 8c(1a) KStG until the Commission had adopted a final decision in the case and to inform the entities concerned that in case of a negative final decision of the Commission, State aid would have to be recovered ⁽¹⁹⁾.

4. COMMENTS FROM THE GERMAN AUTHORITIES

- (25) The German authorities consider that § 8c(1a) KStG does not constitute State aid, for three reasons:
- it complies with the private creditor principle (see Section 4.1),
 - it is not selective (see Section 4.2),
 - it is justified by the nature and the logic of the German tax system (see Section 4.3).

⁽¹⁵⁾ *Gesetz zur Beschleunigung des Wirtschaftswachstums (Wachstumsbeschleunigungsgesetz)*, 22 December 2009, BGBl. 2009, Part I, No 81, p. 3950, point (3)(b) of Article 2.

⁽¹⁶⁾ So called '*vororganschaftliche Verluste*'.

⁽¹⁷⁾ Communication from the Commission — Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).

⁽¹⁸⁾ Guidelines on national regional aid for 2007-2013 (OJ C 54, 4.3.2006, p. 13).

⁽¹⁹⁾ Circular from the Federal Ministry of Finance dated 30 April 2010 addressed to the tax authorities of the Länder in charge of tax collection (BMF v 30.4.2010 IV C 2 -S 2745-a/08/10005:002), BStBl. 2010, Part I, p. 488.

- (26) The German authorities further argue that the new *Sanierungsklausel* in § 8c(1a) KStG corresponds in essence to the old *Sanierungsklausel* in § 8(4) KStG, which had never been criticised by the Commission (see Section 4.4) and that a number of other Member States have similar tax rules in place (see Section 4.5).

4.1. Compliance with the private creditor principle

- (27) In their letter of 2 July 2010, the German authorities claim that the private creditor principle may be invoked with respect to fiscal or para-fiscal claims ⁽²⁰⁾. They furthermore consider that the relationship of the German State towards its taxpayers is comparable to the relationship between a private creditor and a debtor, which are linked by a long-term contract (*Dauerschuldverhältnis*), such as a rent contract or an employment contract. In the view of the German authorities, a private creditor engaged in such a long-term contract would forego part of its future claims, if that enabled the acquisition of its debtor by another undertaking, which in turn would ensure the continuation of the long-term contract.

4.2. Absence of selectivity

- (28) The German authorities consider that § 8c(1a) KStG is a general measure, since it is not limited to any sector, any size of undertakings or any region. They point out that any undertaking could potentially find itself, without being responsible for it, in financial difficulties and be eligible for the application of the rule.
- (29) The German authorities note that the Commission itself had taken the view, in its 1998 notice on direct business taxation, that, 'provided that they apply without distinction to all firms and to the production of all goods', tax measures of a purely technical nature, such as rules on loss carry-overs, were not selective, and that 'the fact that some firms or some sectors benefit more than others from some of these tax measures does not necessarily mean that they are caught by the competition rules governing State aid' ⁽²¹⁾.
- (30) The German authorities take the view that these considerations are of particular importance for favourable tax treatment of research and development, but also of environmental protection, training and employment. In the view of the German authorities, fiscal rules benefitting undertakings making particular efforts in these areas are not selective, as they are open to all undertakings, even if *de facto* they will benefit more undertakings active in certain sectors than others. In their view, the same reasoning should also apply to fiscal rules benefitting undertakings in difficulty which are acquired in order to be restructured.
- (31) The German authorities claim that the Court of Justice and the General Court had accepted that a measure benefitting exclusively undertakings in difficulty may, in principle, constitute a general measure, which is not selective. They quote in this respect first the judgment in the *DM Transport* case ⁽²²⁾, where the Court of Justice held the following with regard to a Belgian payment facility for undertakings in difficulties:

'The French Government argues that payment facilities in relation to social security contributions do not constitute State aid if they are granted in identical circumstances to any undertaking experiencing financial difficulties. That would seem to be the case under the regime established by the Belgian legislation. The Commission, however, claims that the ONSS has a discretionary power in regard to the grant of payment facilities.

It follows from the wording of Article 92(1) of the Treaty that general measures which do not favour only certain undertakings or the production of only certain goods do not fall within that provision. By contrast, where the body granting financial assistance enjoys a degree of latitude which enables it to choose the beneficiaries or the conditions under which the financial assistance is provided, that assistance cannot be considered to be general in nature (see, to that effect, Case C-241/94 *France v Commission* [1996] ECR I-4551, paragraphs 23 and 24).

It is for the national court in the main proceedings to determine whether the ONSS's power to grant payment facilities is discretionary or not and, if it is not, to establish whether the payment facilities granted by the ONSS are general in nature or whether they favour certain undertakings.'

⁽²⁰⁾ Germany cites the judgment of the Court (Second Chamber) of 14 September 2004, *Spain v Commission*, C-276/02, ECLI:EU:C:2004:521, paragraphs 15 and 26, as well as the judgment of the Court (Sixth Chamber) of 29 June 1999, *DM Transport*, C-256/97, ECLI:EU:C:1999:332, paragraphs 22 and 25.

⁽²¹⁾ Commission notice on the application of the State aid rules to measures relating to direct business taxation (OJ C 384, 10.12.1998, p. 3), points 13 and 14.

⁽²²⁾ Judgment of the Court (Sixth Chamber) of 29 June 1999, *DM Transport*, C-256/97, ECLI:EU:C:1999:332, paragraphs 26 to 28.

- (32) Furthermore, the German authorities quote the judgment in the *HAMSA* case ⁽²³⁾, where the Spanish authorities had argued that a measure is not selective, because it applied to all undertakings in difficulty. The Court of First Instance held on that point:

'In the present case, the argument relied on by the applicant and the Kingdom of Spain to the effect that the Spanish law of 26 July 1922 concerning suspension of payments institutes a general procedure, applicable to all companies in difficulty, cannot be accepted. Whilst it is true that the law does not have authority to apply selectively in favour of certain categories of undertakings or sectors of activity, it must be remembered that the debt remissions criticised by the Commission do not flow automatically from the application of the law, but from the discretionary decisions made by the public bodies in question. It is, moreover, settled case-law that where the body granting financial assistance enjoys a degree of latitude which enables it to choose the beneficiaries or the conditions under which the financial assistance is provided, that assistance cannot be considered to be general in nature (Case C-256/97 *DM Transport* [1999] ECR I-3913, paragraph 27).'

- (33) The German authorities argue that, contrary to the measures at stake in *DM Transport* and *HAMSA*, § 8c(1a) KStG does not provide for discretionary decisions of public bodies, but that its application flows automatically from the law. Therefore, applying an argument *a contrario*, § 8c(1a) KStG would not be selective.
- (34) The German authorities also take the view that § 8c(1a) KStG forms part of the body of rules that form the German insolvency law. In particular, the eligibility of an undertaking is based on the notions of illiquidity, risk of illiquidity and over-indebtedness, which are defined in the *Insolvenzordnung* and which render an undertaking eligible for the opening of insolvency procedures.
- (35) The German authorities conclude on the question of selectivity that the Commission's view had as a result that any tax reduction constituted State aid, even if it was generally applicable, and that such a position violated the TFEU.

4.3. Justification by the nature or general scheme of the tax system

- (36) The German authorities consider that the exemption created by § 8c(1a) KStG is justified based on the nature and general scheme of the German system for taxing corporate entities. They claim that there is an objective difference between undertakings in difficulty which are in need of restructuring and other undertakings, and that this objective difference justifies a different treatment of undertakings in difficulty which are acquired in view of a restructuring. The German authorities base their argument on three considerations.
- (37) Firstly, they argue that whereas financially sound undertakings have a choice between financing themselves on capital markets and looking for another undertaking that may want to acquire them, undertakings in difficulty only have the latter option, i.e. to look for an acquirer, as they will not be able to raise debt on capital markets or obtain a bank loan. As a result, undertakings in difficulty will systematically lose the possibility to carry forward their losses, whereas healthy undertakings always have the choice between debt financing and the search for a buyer.
- (38) Secondly, they argue that the *ratio legis* of § 8c(1) KStG, that is to avoid trade in empty-shell companies with accumulated losses, does not require the exclusion of loss carry-forward in situations where the acquisition has the purpose of a restructuring, and not of pure fiscal optimisation. Without the limitation of § 8c(1a) KStG to acquisitions of undertakings in financial difficulty in view of restructuring, i.e. by including also other acquisitions, the *ratio legis* could no longer be realized.
- (39) Thirdly, they argue that the purpose of § 8c(1) KStG is to ensure that the sales price for participations in undertakings is based solely on the economic value of the undertaking, excluding the value of the accumulated losses for fiscal optimisation. In case of the acquisition of an undertaking in difficulty in view of restructuring, however, the possible value of accumulated losses plays, in the view of the German authorities, no particular role. To demonstrate this, they note that accountants do not give any value, in the books of a tax-consolidated entity, to possibly carried-forward losses of an ailing undertaking.
- (40) For these three cumulative reasons, the German authorities consider that, even if § 8c(1a) KStG were *prima facie* selective, it is in any event justified by the nature and general scheme of taxation of corporate entities in Germany.

⁽²³⁾ Judgment of the Court of First Instance (Fifth Chamber, extended composition) of 11 July 2002, *HAMSA v Commission*, T-152/99, ECLI:EU:T:2002:188, paragraph 157.

4.4. Link between new and old *Sanierungsklausel*

- (41) The German authorities observe that § 8c KStG has replaced, as of 1 January 2008, a similar rule, namely § 8(4) KStG. They note that both rules pursue the same objective, namely to exclude trade in empty-shell companies with accumulated losses.
- (42) The German authorities note that the Commission had never indicated any possible problems with regard to § 8(4) KStG, and that it therefore would appear that this rule did not constitute State aid.
- (43) Therefore, they consider that the position of the Commission in this regard is incoherent.

4.5. Similar rules in other tax systems

- (44) The German authorities have indicated that many other Member States have rules in place which are comparable to § 8c(1a) KStG. They cite in this respect Austria, Belgium, Finland, Italy, Luxembourg and the Netherlands. They note that the Commission has not taken any action under its State aid competences with regard to these Member States, despite the very strong similarities of the systems.
- (45) The German authorities, in reaction to recital 34 of the Opening Decision, which explains the action the Commission has taken with respect to the French system, underline also that the German system is different from the French system that had been limited to certain sectors of the economy and contained a complete exemption from corporate income tax.

5. DEVELOPMENTS AFTER THE ADOPTION OF THE 2011 DECISION AND AFTER ITS ANNULMENT

- (46) After the adoption of the 2011 Decision, Germany suspended the application of the measure until a final judgment by the General Court or the Court of Justice ⁽²⁴⁾.
- (47) On 29 March 2017, the German Federal Constitutional Court (*Bundesverfassungsgericht*) considered the *pro rata* forfeiture of losses in case of a transfer of 25 %–50 % share capital, membership rights, ownership rights or voting rights under § 8c(1) KStG unconstitutional, and required the German Parliament to amend the provision by 31 December 2018 ⁽²⁵⁾. The German Parliament subsequently removed (with retroactive effect from 21 December 2007) the *pro rata* forfeiture of losses in case of a transfer of 25 %–50 % share capital, membership rights, ownership rights or voting rights, and retained only the full forfeiture of losses if more than 50 % of such capital or rights were transferred to another entity ⁽²⁶⁾.
- (48) After the annulment of the 2011 Decision by the Court of Justice, Germany also reintroduced the *Sanierungsklausel* (§ 8c(1a)) in the KStG on 11 December 2018 (with retroactive effect from 2008) ⁽²⁷⁾.

6. ASSESSMENT OF THE MEASURE

- (49) According to Article 107(1) TFEU, ‘any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market’.
- (50) The qualification of a measure as aid within the meaning of this provision therefore requires the following conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage to an undertaking; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (51) The characterisation of a measure as State aid, within the meaning of Article 107(1) TFEU requires all four conditions to be met, those conditions being cumulative. The Commission will examine first the condition relating to the granting of a selective advantage.

⁽²⁴⁾ Point (2)(a) of Article 4 (amendment to § 34(7c) KStG) of the act to transpose the Directive concerning the recovery of claims relating to taxes, duties and other measures and to amend laws on taxation (*Gesetz zur Umsetzung der Beitreibungsrichtlinie sowie zur Änderung steuerlicher Vorschriften*), 7 December 2011, BGBl. 2011, Part I, No 64, p. 2592.

⁽²⁵⁾ Judgment of the *Bundesverfassungsgericht* of 29 March 2017, 2 BvL 6/11 https://www.bundesverfassungsgericht.de/els20170329_2bvl000611.html

⁽²⁶⁾ Point (2) of Article 6 (amendment to § 8c(1) KStG) of the act to prevent shortfalls of turnover taxes due on product sales over the internet and to amend further laws on taxation (*Gesetz zur Vermeidung von Umsatzsteuerausfällen beim Handel mit Waren im Internet und zur Änderung weiterer steuerlicher Vorschriften*), 11 December 2018, BGBl. 2018, Part I, No 45, p. 2338.

⁽²⁷⁾ Point (6)(b) of Article 6 (amendment to § 34(6) KStG) of the *Gesetz zur Vermeidung von Umsatzsteuerausfällen beim Handel mit Waren im Internet und zur Änderung weiterer steuerlicher Vorschriften*.

- (52) As a matter of principle, to assess the existence of an advantage the financial situation of the undertaking following the measure should be compared with its financial situation if the measure had not been taken ⁽²⁸⁾.
- (53) In particular, in relation to tax measures, in order to evidence a possible tax advantage, it is necessary to assess whether the tax treatment granted to an entity provides it with an advantage in comparison to the ordinary or 'normal' tax regime ⁽²⁹⁾. The assessment of the advantage is thus closely linked with the assessment of the selectivity criterion (where the existence of a derogatory tax treatment is also assessed in comparison to the general tax rules).
- (54) According to established case law ⁽³⁰⁾, the assessment of the material selectivity of a fiscal measure takes place in three steps. First, it is necessary to identify and examine the common or 'normal' regime ('system of reference') applicable in the Member State concerned. Second, it is in relation to this common or 'normal' tax regime that it is necessary to assess and determine if any advantage granted by the tax measure at issue may be selective. This has to be done by demonstrating that the measure derogates from that common regime inasmuch as it differentiates between economic operators that, in the light of the objective pursued by that regime, are in a comparable factual and legal situation. Third, if such derogation exists, it is necessary to examine whether it results from the nature or general scheme of the taxation system of which it forms part and could hence be justified by the nature or logic of the system. In this context, it is for the Member State to show that the differentiated tax treatment derives directly from the basic or guiding principles of that system.
- (55) In this case, it results from the judgments of the Court of Justice ⁽³¹⁾ that the corporate tax rules applicable in Germany generally to all undertakings are the system of reference and that these include the general loss carry-forward rule under §8(1) KStG. The objective of these rules is the taxation of corporate profits to generate revenue for the budget, in accordance with the ability-to-pay principle.
- (56) §8(1) KStG establishes (by reference to § 10d EStG) that entities subject to corporate income tax can, for tax purposes, carry-forward losses incurred in a tax year to future tax years (up to an upper limit of EUR 1 million per year).
- (57) The Court of Justice considered in paragraph 102 of the *Andres* Judgment ⁽³²⁾ that the rule governing the forfeiture of losses was itself an exception to the loss carry-forward rule and that an overall examination of the content of those provisions should have made it possible to find that the restructuring clause's effect was to define a situation falling under the general loss carry-forward rule.
- (58) It is therefore not necessary, in the specific circumstances of the case, to determine whether the anti-abuse rules are part of the system of reference, since, in any event, the analysis of the Court of Justice seems to exclude that the restructuring clause contradicts the objective of these rules ⁽³³⁾ and derogates from them ⁽³⁴⁾.
- (59) To assess whether the *Sanierungsklausel* under §8c(1a) KStG constitutes a selective advantage, the Commission must determine whether the tax measure at issue is a derogation from that ordinary system, in so far as it differentiates between operators who, in the light of the objective pursued by the ordinary tax system, are in a comparable factual and legal situation.

⁽²⁸⁾ See the judgment of the Court of 2 July 1974, *Italy v Commission*, Case 173/73, ECLI:EU:C:1974:71, paragraph 17.

⁽²⁹⁾ See for example the judgment of the Court (Second Chamber) of 15 December 2005, *Unicredito Italiano*, C-148/04, ECLI:EU:C:2005:774, paragraphs 50 to 52; judgment of the Court (Third Chamber) of 8 December 2011, *France Télécom v Commission*, C-81/10 P, ECLI:EU:C:2011:811, paragraph 24.

⁽³⁰⁾ See for example the judgment of the Court (First Chamber) of 8 September 2011, *Paint Graphos and Others*, C-78/08 to C-80/08, ECLI:EU:C:2011:550, paragraphs 49 and 71; judgment of the Court (Grand Chamber) of 21 December 2016, *Commission v World Duty Free Group*, and *Commission v Banco Santander and Santusa*, C-20/15 P and C-21/15 P, ECLI:EU:C:2016:981, paragraphs 57 and 58.

⁽³¹⁾ Judgment of the Court (Second Chamber) of 28 June 2018, *Andres (faillite Heitkamp BauHolding) v Commission*, C-203/16 P, ECLI:EU:C:2018:505; judgment of the Court (Second Chamber) of 28 June 2018, *Germany v Commission*, C-208/16 P, ECLI:EU:C:2018:506; judgment of the Court (Second Chamber) of 28 June 2018, *Germany v Commission*, C-209/16 P, ECLI:EU:C:2018:507; judgment of the Court (Second Chamber) of 28 June 2018, *Lowell Financial Services v Commission*, C-219/16 P, ECLI:EU:C:2018:508.

⁽³²⁾ Judgment of the Court (Second Chamber) of 28 June 2018, *Andres (faillite Heitkamp BauHolding) v Commission*, C-203/16 P, ECLI:EU:C:2018:505

⁽³³⁾ Which would consist in preventing that companies unduly reduce their tax base by the use of loss carry-forwards from empty-shell companies.

⁽³⁴⁾ Furthermore, it could be argued that the requirement, set by the *Sanierungsklausel*, that the essential business structures and activity of the company must be preserved, excludes abuse.

- (60) Given that §8c(1a) KStG allows companies, which are illiquid or over-indebted (or in risk of illiquidity or over-indebtedness) and are being restructured, to carry forward losses, the measure does not derogate from the general carry-forward rule under §8(1) KStG.
- (61) On this basis, the Commission concludes that §8c(1a) KStG does not provide a selective advantage to the corporate entities to which it applies.
- (62) In view of the above finding, it is not necessary to assess further arguments of the German authorities concerning the absence of a selective advantage. It is also not necessary to assess the remaining conditions for a measure to qualify as aid, since the characterisation of a measure as State aid requires all four conditions of Article 107(1) TFEU to be met, those conditions being cumulative.

7. CONCLUSION

- (63) On the basis of the foregoing, the Commission concludes that § 8c(1a) KStG (*Sanierungsklausel*) does not constitute State aid within the meaning of Article 107(1) TFEU,

HAS ADOPTED THIS DECISION:

Article 1

The scheme on the fiscal carry-forward of losses in case of restructuring of companies in difficulty under § 8c(1a) KStG (*Sanierungsklausel*) does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 22 January 2020.

For the Commission
Margrethe VESTAGER
Executive Vice-President

COMMISSION IMPLEMENTING DECISION (EU) 2020/451**of 26 March 2020****amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States***(notified under document C(2020) 1985)***(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 checks applicable in intra-Union 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,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽³⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Implementing Decision 2014/709/EU ⁽⁴⁾ lays down animal health control measures in relation to African swine fever in certain Member States, where there have been confirmed cases of that disease in domestic or feral pigs (the Member States concerned). The Annex to that Implementing Decision demarcates and lists certain areas of the Member States concerned in Parts I to IV thereof, differentiated by the level of risk based on the epidemiological situation as regards that disease. The Annex to Implementing Decision 2014/709/EU has been amended several times to take account of changes in the epidemiological situation in the Union as regards African swine fever that need to be reflected in that Annex. The Annex to Implementing Decision 2014/709/EU was last amended by Commission Implementing Decision (EU) 2020/397 ⁽⁵⁾, following instances of African swine fever in pigs in Romania and Poland.
- (2) Since the date of adoption of Implementing Decision (EU) 2020/397, there have been new occurrences of African swine fever in domestic and feral pigs in Poland and in feral pigs in Hungary.
- (3) In March 2020, one outbreak of African swine fever in domestic pigs was observed in the district of nowosolski in Poland in an area currently listed in Part II of the Annex to Implementing Decision 2014/709/EU. This outbreak of African swine fever in domestic pigs constitutes an increased level of risk, which should be reflected in that Annex. Accordingly, this area of Poland currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, affected by this recent outbreak of African swine fever, should now be listed in Part III of that Annex instead of in Part II thereof.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁴⁾ Commission Implementing Decision 2014/709/EU of 9 October 2014 concerning animal health control measures relating to African swine fever in certain Member States and repealing Implementing Decision 2014/178/EU (OJ L 295, 11.10.2014, p. 63).

⁽⁵⁾ Commission Implementing Decision (EU) 2020/397 of 12 March 2020 amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States (OJ L 77, 13.3.2020, p. 5).

- (4) In addition, in March 2020, a case of African swine fever in a feral pig was observed in the district of glogowski in Poland in an area currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, located in close proximity to an area listed in Part I thereof. This case of African swine fever in a feral pig constitutes an increased level of risk, which should be reflected in that Annex. Accordingly, this area of Poland currently listed in Part I of the Annex to Implementing Decision 2014/709/EU, but which is in close proximity to the area listed in Part II thereof affected by this recent case of African swine fever in the district of glogowski, should now be listed in Part II of that Annex instead of in Part I thereof.
- (5) In March 2020, several cases of African swine fever in feral pigs were also observed in the county of Nógrád in Hungary in areas currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, located in close proximity to areas listed in Part I thereof. These cases of African swine fever in feral pigs constitute an increased level of risk which should be reflected in that Annex. Accordingly, these areas of Hungary listed in Part I of the Annex to Implementing Decision 2014/709/EU that are in close proximity to areas listed in Part II affected by these recent cases of African swine fever should now be listed in Part II of that Annex instead of in Part I thereof.
- (6) Following these recent occurrences of African swine fever in domestic and feral pigs in Poland and Hungary, and taking into account the current epidemiological situation in the Union, regionalisation in those two Member States has been reassessed and updated. In addition, the risk management measures in place also have been reassessed and updated. These changes need to be reflected in the Annex to Implementing Decision 2014/709/EU.
- (7) In order to take account of recent developments in the epidemiological evolution of African swine fever in the Union, and in order to combat the risks associated with the spread of that disease in a proactive manner, new high-risk areas of a sufficient size should be demarcated for Poland and Hungary and duly listed in Parts II and III of the Annex to Implementing Decision 2014/709/EU. Parts I, II and III of the Annex to Implementing Decision 2014/709/EU should therefore be amended accordingly.
- (8) Given the urgency of the epidemiological situation in the Union as regards the spread of African swine fever, it is important that the amendments made to the Annex to Implementing Decision 2014/709/EU by this Decision take effect as soon as possible.
- (9) 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 2014/709/EU is replaced by the text set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 March 2020.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ANNEX

The Annex to Implementing Decision 2014/709/EU is replaced by the following:

'ANNEX

PART I

1. Belgium

The following areas in Belgium:

in Luxembourg province:

- the area is delimited clockwise by:
- Frontière avec la France,
- Rue Mersinhat,
- La N818 jusque son intersection avec la N83,
- La N83 jusque son intersection avec la N884,
- La N884 jusque son intersection avec la N824,
- La N824 jusque son intersection avec Le Routeux,
- Le Routeux,
- Rue d'Orgéo,
- Rue de la Vierre,
- Rue du Bout-d'en-Bas,
- Rue Sous l'Eglise,
- Rue Notre-Dame,
- Rue du Centre,
- La N845 jusque son intersection avec la N85,
- La N85 jusque son intersection avec la N40,
- La N40 jusque son intersection avec la N802,
- La N802 jusque son intersection avec la N825,
- La N825 jusque son intersection avec la E25-E411,
- La E25-E411 jusque son intersection avec la N40,
- N40: Burnaimont, Rue de Luxembourg, Rue Ranci, Rue de la Chapelle,
- Rue du Tombois,
- Rue Du Pierroy,
- Rue Saint-Orban,
- Rue Saint-Aubain,
- Rue des Cottages,
- Rue de Relune,
- Rue de Rulune,
- Route de l'Ermitage,
- N87: Route de Habay,
- Chemin des Ecoliers,
- Le Routy,
- Rue Burgknapp,
- Rue de la Halte,
- Rue du Centre,
- Rue de l'Eglise,

- Rue du Marquisat,
- Rue de la Carrière,
- Rue de la Lorraine,
- Rue du Beynert,
- Millewée,
- Rue du Tram,
- Millewée,
- N4: Route de Bastogne, Avenue de Longwy, Route de Luxembourg,
- Frontière avec le Grand-Duché de Luxembourg,
- Frontière avec la France,
- La N87 jusque son intersection avec la N871 au niveau de Rouvroy,
- La N871 jusque son intersection avec la N88,
- La N88 jusque son intersection avec la rue Baillet Latour,
- La rue Baillet Latour jusque son intersection avec la N811,
- La N811 jusque son intersection avec la N88,
- La N88 jusque son intersection avec la N883 au niveau d'Aubange,
- La N883 jusque son intersection avec la N81 au niveau d'Aubange,
- La N81 jusque son intersection avec la E25-E411,
- La E25-E411 jusque son intersection avec la N40,
- La N40 jusque son intersection avec la rue du Fet,
- Rue du Fet,
- Rue de l'Accord jusque son intersection avec N801,
- N801 jusque son intersection avec Le Sart,
- Le Sart,
- La Fosse du Loup,
- Les Chanvières,
- La Roquignole,
- Hosseuse,
- Rue de Neufchâteau,
- Rue Grande,
- La N894 jusque son intersection avec la N85,
- La N85 jusque son intersection avec la frontière avec la France.

2. Estonia

The following areas in Estonia:

- Hiiu maakond.

3. Hungary

The following areas in Hungary:

- Békés megye 950150, 950250, 950350, 950450, 950550, 950650, 950660, 950750, 950950, 950960, 950970, 951050, 951950, 952050, 952750, 952850, 952950, 953050, 953150, 953650, 953660, 953750, 953850, 953960, 954250, 954260, 954350, 954450, 954550, 954650, 954750, 954850, 954860, 954950, 955050, 955150, 955250, 955260, 955270, 955350, 955450, 955510, 955650, 955750, 955760, 955850, 955950, 956050, 956060, 956150, 956160 és 956450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Bács-Kiskun megye 600150, 600850, 601550, 601650, 601660, 601750, 601850, 601950, 602050, 603250, 603750 és 603850 kódszámú vadgazdálkodási egységeinek teljes területe,

- Budapest 1 kódszámú, vadgazdálkodási tevékenységre nem alkalmas területe,
- Csongrád megye 800150, 800160, 800250, 802220, 802260, 802310 és 802450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Fejér megye 400150, 400250, 400351, 400352, 400450, 400550, 401150, 401250, 401350, 402050, 402350, 402360, 402850, 402950, 403050, 403250, 403350, 403450, 403550, 403650, 403750, 403950, 403960, 403970, 404570, 404650, 404750, 404850, 404950, 404960, 405050, 405750, 405850, 405950, 406050, 406150, 406550, 406650 és 406750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Hajdú-Bihar megye 900750, 901250, 901260, 901270, 901350, 901551, 901560, 901570, 902650, 902660, 902670, 902750, 903650, 903750, 903850, 904250, 904350, 904950, 904960, 905070, 905150, 905250 és 905260 kódszámú vadgazdálkodási egységeinek teljes területe,
- Jász-Nagykun-Szolnok megye 750150, 750160, 750260, 750350, 750450, 750460, 754450, 754550, 754560, 754570, 754650, 754750, 754950, 755050, 755150, 755250, 755350 és 755450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye 250850, 250950, 251050, 251150, 251360, 251450, 251550, 251650, 251750, 251850, 251950, 252050, 252150, 252250, 252550, 252650 és 253550 kódszámú vadgazdálkodási egységeinek teljes területe,
- Nógrád megye 553250, 553260, 553350, 553750, 553850 és 553910 kódszámú vadgazdálkodási egységeinek teljes területe,
- Pest megye 570150, 570250, 570350, 570450, 570550, 570650, 570750, 570850, 571050, 571150, 571250, 571350, 571550, 571610, 571750, 571760, 572150, 572250, 572350, 572550, 572650, 572750, 572850, 572950, 573150, 573250, 573260, 573350, 573360, 573450, 573850, 573950, 573960, 574050, 574150, 574350, 574360, 574550, 574650, 574750, 574850, 574860, 574950, 575050, 575150, 575250, 575350, 575550, 575650, 575750, 575850, 575950, 576050, 576150, 576250, 576350, 576450, 576650, 576750, 576850, 576950, 577050, 577150, 577250, 577350, 577450, 577650, 577850, 577950, 578050, 578150, 578250, 578350, 578360, 578450, 578550, 578560, 578650, 578850, 578950, 579050, 579150, 579250, 579350, 579450, 579460, 579550, 579650, 579750, 580050, 580250 és 580450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Szabolcs-Szatmár-Bereg megye 851950, 852350, 852450, 852550, 852750, 853751, 853850, 853950, 853960, 854050, 855650 és 855660 kódszámú vadgazdálkodási egységeinek teljes területe.

4. Latvia

The following areas in Latvia:

- Pāvilostas novads,
- Stopiņu novada daļa, kas atrodas uz rietumiem no autoceļa V36, P4 un P5, Acones ielas, Daugulupes ielas un Daugulupītes,
- Ventspils novada Jūrkalnes pagasts,
- Grobiņas novads,
- Rucavas novada Dunikas pagasts.

5. Lithuania

The following areas in Lithuania:

- Klaipėdos rajono savivaldybės: Agluonėnų, Priekulės, Veiviržėnų, Judrėnų, Endriejavo ir Vėžaičių seniūnijos,
- Kretingos rajono savivaldybės: Imbarės, Kartenos ir Kūlipėnų seniūnijos,
- Plungės rajono savivaldybės: Kulių, Nausodžio, Plungės miesto ir Šateikių seniūnijos,
- Skuodo rajono savivaldybės: Lenkimų, Mosėdžio, Skuodo, Skuodo miestoseniūnijos.

6. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- gminy Wielbark i Rozogi w powiecie szczycieńskim,
- gminy Janowiec Kościelny, Janowo i Kozłowo w powiecie nidzickim,

- powiat działdowski,
 - gminy Łukta, Miłomłyn, Dąbrówno, Grunwald i Ostróda z miastem Ostróda w powiecie ostródzkim,
 - gminy Kisielice, Susz, Iława z miastem Iława, Lubawa z miastem Lubawa, w powiecie iławskim,
- w województwie podlaskim:
- gminy Kulesze Kościelne, Wysokie Mazowieckie z miastem Wysokie Mazowieckie, Czyżew w powiecie wysokomazowieckim,
 - gminy Miastkowo, Nowogród, Śniadowo i Zbójna w powiecie łomżyńskim,
- powiat zambrowski,
- w województwie mazowieckim:
- powiat ostrołęcki,
 - powiat miejski Ostrołęka,
 - gminy Bielsk, Brudzeń Duży, Drobin, Gąbin, Łąck, Nowy Duninów, Radzanowo, Słupno i Stara Biała w powiecie płońskim,
 - powiat miejski Płock,
 - powiat sierpecki,
 - powiat żuromiński,
 - gminy Andrzejewo, Brok, Małkinia Górna, Stary Lubotyń, Szulborze Wielkie, Wąsewo, Zaręby Kościelne i Ostrów Mazowiecka z miastem Ostrów Mazowiecka w powiecie ostrowskim,
 - gminy Dzierzgowo, Lipowiec Kościelny, miasto Mława, Radzanów, Szreńsk, Szydłowo i Wieczfnia Kościelna, w powiecie mławskim,
 - powiat przasnyski,
 - powiat makowski,
 - gminy Gzy, Obryte, Zatory, Pułtusk i część gminy Winnica położona na wschód od linii wyznaczonej przez drogę łączącą miejscowości Bielany, Winnica i Pokrzywnica w powiecie pułtuskim,
 - gminy Brańszczyk, Długosiodło, Rząśnik, Wyszaków, Zabrodzie i część gminy Somianka położona na północ od linii wyznaczonej przez drogę nr 62 w powiecie wyszkowskim,
 - gminy Kowala, Wierzbiца, część gminy Wolanów położona na południe od linii wyznaczonej przez drogę nr 12, i część gminy Iłża położona na zachód od linii wyznaczonej przez drogę nr 9 w powiecie radomskim,
 - powiat miejski Radom,
 - powiat szydłowiecki,
 - powiat gostyniński,
- w województwie podkarpackim:
- gmina Wielkie Oczy w powiecie lubaczowskim,
 - gminy Laszki, Radymno z miastem Radymno, część gminy Wiązownica położona na południe od linii wyznaczonej przez drogę nr 867 i gmina wiejska Jarosław w powiecie jarosławskim,
 - gminy Przeworsk z miastem Przeworsk, Gać Jawornik Polski, Kańczuga, Tryńcza i Zarzecze w powiecie przeworskim,
 - powiat łańcucki,
 - gminy Trzebownisko, Głogów Małopolski i część gminy Sokołów Małopolski położona na południe od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
 - gminy Dzikowiec, Kolbuszowa, Niwiska i Raniżów– w powiecie kolbuszowskim gminy Borowa, Czermin, Gawłuszowice, Mielec z miastem Mielec, Padew Narodowa, Przecław, Tuszów Narodowy w powiecie mieleckim,
- w województwie świętokrzyskim:
- powiat opatowski,
 - powiat sandomierski,
 - gminy Bogoria, Łubnice, Oleśnica, Osiek, Połaniec, Rytwiany i Staszów w powiecie staszowskim,

- gmina Skarżysko Kościelne w powiecie skarżyskim,
- gminy Brody i Mirzec w powiecie starachowickim,
- powiat ostrowiecki,
- gminy Gowarczów, Końskie i Stąporków w powiecie koneckim,

w województwie łódzkim:

- gminy Łyszkowice, Kocierzew Południowy, Kiernoż, Chąsno, Nieborów, część gminy wiejskiej Łowicz położona na północ od linii wyznaczonej przez drogę nr 92 biegnącej od granicy miasta Łowicz do zachodniej granicy gminy oraz część gminy wiejskiej Łowicz położona na wschód od granicy miasta Łowicz i na północ od granicy gminy Nieborów w powiecie łowickim,
- gminy Biała Rawska, Cielądz, Rawa Mazowiecka z miastem Rawa Mazowiecka i Regnów w powiecie rawskim,
- powiat skierniewicki,
- powiat miejski Skierniewice,
- gminy Białaczów, Mniszków, Paradyż, Sławno i Żarnów w powiecie opoczyńskim,
- gminy Czerniewice, Inowódz, Lubochnia, Rzeczyca, Tomaszów Mazowiecki z miastem Tomaszów Mazowiecki i Żelechlinek w powiecie tomaszowskim,

w województwie pomorskim:

- gminy Ostaszewo, Stegna, Sztutowo, miasto Krynica Morska oraz część gminy Nowy Dwór Gdański położona na zachód od linii wyznaczonej przez drogę nr 55 biegnącą od południowej granicy gminy do skrzyżowania z drogą nr 7, następnie przez drogę nr 7 i S7, i dalej przez drogę nr 502 biegnącą od skrzyżowania z drogą nr S7 do północnej granicy gminy w powiecie nowodworskim,
- gminy Lichnowy, Miłoradz, Nowy Staw, Malbork z miastem Malbork w powiecie malborskim,
- gminy Mikołajki Pomorskie, Stary Targ i Sztum w powiecie sztumskim,
- powiat gdański,
- Miasto Gdańsk,
- powiat tczewski,
- powiat kwidzyński,

w województwie lubuskim:

- gminy Maszewo i Gubin z miastem Gubin w powiecie krośnieńskim,
- gminy Międzyrzecz, Pszczew, Trzciel w powiecie międzyrzeckim,
- gmina Lubrza, Łagów, część gminy Zbąszynek położona na północ od linii wyznaczonej przez linię kolejową, część gminy Szczaniec położona na północ od linii wyznaczonej przez linię kolejową, część gminy Świebodzin położona na północ od linii wyznaczonej przez linię kolejową w powiecie świebodzińskim,
- gmina Cybinka w powiecie słubickim,
- część gminy Torzym położona na południe od linii wyznaczonej przez autostradę A2 w powiecie sulęcińskim,

w województwie dolnośląskim:

- gminy Bolesławiec z miastem Bolesławiec, Gromadka i Osiecznica w powiecie bolesławieckim,
- gmina Węgliniec w powiecie zgorzeleckim,
- gminy Chocianów, Radwanice, Przemków i część gminy Polkowice położona na północ od linii wyznaczonej przez drogę nr 331 w powiecie polkowickim,
- gmina Jemielno, Niechlów i Góra w powiecie górowskim,
- gmina Rudna i Lubin z miastem Lubin w powiecie lubińskim,

w województwie wielkopolskim:

- gminy Krzemieniewo, Lipno, Osieczna, Rydzyna, Świąciechowa, Włoszakowice w powiecie leszczyńskim,
- powiat miejski Leszno,
- powiat nowotomyski,

- gminy Granowo, Grodzisk Wielkopolski i Kamieniec w powiecie grodziskim,
- gminy Stęszew i Buk w powiecie poznańskim,
- powiat kościański.

7. Slovakia

The following areas in Slovakia:

- the whole district of Vranov nad Topľou,
- the whole district of Humenné,
- the whole district of Snina,
- the whole district of Sobrance,
- the whole district of Košice-mesto,
- in the district of Michalovce, the whole municipalities of Tušice, Moravany, Pozdišovce, Michalovce, Zalužice, Lúčky, Závadka, Hnojné, Poruba pod Vihorlatom, Jovsa, Kusín, Klokočov, Kaluža, Vinné, Trnava pri Laborci, Oreské, Staré, Zbudza, Petrovce nad Laborcom, Lesné, Suché, Rakovec nad Ondavou, Nacina Ves, Voľa, Pusté Čemerné and Strážske,
- in the district of Košice – okolie, the whole municipalities not included in Part II.

8. Greece

The following areas in Greece:

- in the regional unit of Drama:
 - the community departments of Sidironero and Skaloti and the municipal departments of Livadero and Ksiropotamo (in Drama municipality),
 - the municipal department of Paranesti (in Paranesti municipality),
 - the municipal departments of Kokkinogeia, Mikropoli, Panorama, Pyrgoi (in Prosotsani municipality),
 - the municipal departments of Kato Nevrokopi, Chrysokefalo, Achladea, Vathytopos, Volakas, Granitis, Dasotos, Eksohi, Katafyto, Lefkogeia, Mikrokleisoura, Mikromilea, Ochyro, Pagoneri, Perithorio, Kato Vrontou and Potamoi (in Kato Nevrokopi municipality),
- in the regional unit of Xanthi:
 - the municipal departments of Kimmerion, Stavroupoli, Gerakas, Dafnonas, Komnina, Kariofyto and Neochori (in Xanthi municipality),
 - the community departments of Satres, Thermes, Kotyli, and the municipal departments of Myki, Echinós and Oraio and (in Myki municipality),
 - the community department of Selero and the municipal department of Sounio (in Avdira municipality),
- in the regional unit of Rodopi:
 - the municipal departments of Komotini, Anthochorio, Gratini, Thrylorio, Kalhas, Karydia, Kikidio, Kosmio, Pandrosos, Aigeiros, Kallisti, Meleti, Neo Sidirochori and Mega Doukato (in Komotini municipality),
 - the municipal departments of Ipio, Arriana, Darmeni, Archontika, Fillyra, Ano Drosini, Aratos and the Community Departments Kehros and Organi (in Arriana municipality),
 - the municipal departments of Iasmos, Sostis, Asomatoi, Polyanthos and Amvrosia and the community department of Amaxades (in Iasmos municipality),
 - the municipal department of Amaranta (in Maroneia Sapon municipality),
- in the regional unit of Evros:
 - the municipal departments of Kyriaki, Mandra, Mavrokklisi, Mikro Dereio, Protokklisi, Roussa, Goniko, Geriko, Sidirochori, Megalo Derio, Sidiro, Giannouli, Agriani and Petrolofos (in Soufli municipality),
 - the municipal departments of Dikaia, Arzos, Elaia, Therapio, Komara, Marasia, Ormenio, Pentalofos, Petrola, Plati, Ptelea, Kyprinos, Zoni, Fulakio, Spilaio, Nea Vyssa, Kavili, Kastanies, Rizia, Sterna, Ampelakia, Valtos, Megali Doxipara, Neochori and Chandras (in Orestiada municipality),
 - the municipal departments of Asvestades, Ellinochori, Karoti, Koufovouno, Kiani, Mani, Sitchori, Alepochori, Asproneri, Metaxades, Vrysika, Doksa, Elafoxori, Ladi, Paliouri and Poimeniko (in Didymoteicho municipality),

- in the regional unit of Serres:
 - the municipal departments of Kerkini, Livadia, Makrynitsa, Neochori, Platanakia, Petritsi, Akritochori, Vyroneia, Gonimo, Mandraki, Megalochori, Rodopoli, Ano Poroia, Katw Poroia, Sidirokastro, Vamvakophyto, Promahonas, Kamaroto, Strymonochori, Charopo, Kastanousi and Chortero and the community departments of Achladochori, Agkistro and Kapnophyto (in Sintiki municipality),
 - the municipal departments of Serres, Elaionas and Oinoussa and the community departments of Orini and Ano Vrontou (in Serres municipality),
 - the municipal departments of Dasochoriou, Irakleia, Valtero, Karperi, Koimisi, Lithotopos, Limnochori, Podismeno and Chrysochorafa (in Irakleia municipality).

PART II

1. Belgium

The following areas in Belgium:

in Luxembourg province:

- the area is delimited clockwise by:
 - La frontière avec la France au niveau de Florenville,
 - La N85 jusque son intersection avec la N894 au niveau de Florenville,
 - La N894 jusque son intersection avec la rue Grande,
 - La rue Grande jusque son intersection avec la rue de Neufchâteau,
 - La rue de Neufchâteau jusque son intersection avec Hosseuse,
 - Hosseuse,
 - La Roquignole,
 - Les Chanvières,
 - La Fosse du Loup,
 - Le Sart,
 - La N801 jusque son intersection avec la rue de l'Accord,
 - La rue de l'Accord,
 - La rue du Fet,
 - La N40 jusque son intersection avec la E25-E411,
 - La E25-E411 jusque son intersection avec la N81 au niveau de Weyler,
 - La N81 jusque son intersection avec la N883 au niveau d'Aubange,
 - La N883 jusque son intersection avec la N88 au niveau d'Aubange,
 - La N88 jusque son intersection avec la N811,
 - La N811 jusque son intersection avec la rue Baillet Latour,
 - La rue Baillet Latour jusque son intersection avec la N88,
 - La N88 jusque son intersection avec la N871,
 - La N871 jusque son intersection avec la N87 au niveau de Rouvroy,
 - La N87 jusque son intersection avec la frontière avec la France.

2. Bulgaria

The following areas in Bulgaria:

- the whole region of Haskovo,
- the whole region of Yambol,
- the whole region of Stara Zagora,
- the whole region of Pernik,

- the whole region of Kyustendil,
- the whole region of Plovdiv,
- the whole region of Pazardzhik,
- the whole region of Smolyan,
- the whole region of Burgas excluding the areas in Part III.

3. Estonia

The following areas in Estonia:

- Eesti Vabariik (välja arvatud Hiiu maakond).

4. Hungary

The following areas in Hungary:

- Békés megye 950850, 950860, 951150, 951250, 951260, 951350, 951450, 951460, 951550, 951650, 951750, 952150, 952250, 952350, 952450, 952550, 952650, 953250, 953260, 953270, 953350, 953450, 953510, 953950, 954050, 954060, 954150, 956250, 956350, 956550, 956650 és 956750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Borsod-Abaúj-Zemplén megye 650100, 650200, 650300, 650400, 650500, 650600, 650700, 650800, 650900, 651000, 651100, 651200, 651300, 651400, 651500, 651610, 651700, 651801, 651802, 651803, 651900, 652000, 652100, 652200, 652300, 652601, 652602, 652603, 652700, 652900, 653000, 653100, 653200, 653300, 653401, 653403, 653500, 653600, 653700, 653800, 653900, 654000, 654201, 654202, 654301, 654302, 654400, 654501, 654502, 654600, 654700, 654800, 654900, 655000, 655100, 655200, 655300, 655400, 655500, 655600, 655700, 655800, 655901, 655902, 656000, 656100, 656200, 656300, 656400, 656600, 656701, 656702, 656800, 656900, 657010, 657100, 657300, 657400, 657500, 657600, 657700, 657800, 657900, 658000, 658100, 658201, 658202, 658310, 658401, 658402, 658403, 658404, 658500, 658600, 658700, 658801, 658802, 658901, 658902, 659000, 659100, 659210, 659220, 659300, 659400, 659500, 659601, 659602, 659701, 659800, 659901, 660000, 660100, 660200, 660400, 660501, 660502, 660600 és 660800, valamint 652400, 652500 és 652800 kódszámú vadgazdálkodási egységeinek teljes területe,
- Fejér megye 403150, 403160, 403260, 404250, 404550, 404560, 405450, 405550, 405650, 406450 és 407050 kódszámú vadgazdálkodási egységeinek teljes területe,
- Hajdú-Bihar megye 900150, 900250, 900350, 900450, 900550, 900650, 900660, 900670, 901850, 900850, 900860, 900950, 900960, 901050, 901150, 901450, 901580, 901590, 901650, 901660, 901750, 901950, 902050, 902150, 902250, 902350, 902450, 902550, 902850, 902860, 902950, 902960, 903050, 903150, 903250, 903350, 903360, 903370, 903450, 903550, 903950, 903960, 904050, 904060, 904150, 904450, 904460, 904550 és 904650, 904750, 904760, 904850, 904860, 905050, 905060, 905080, 905350, 905360, 905450 és 905550 kódszámú vadgazdálkodási egységeinek teljes területe,
- Heves megye 700150, 700250, 700260, 700350, 700450, 700460, 700550, 700650, 700750, 700850, 700860, 700950, 701050, 701111, 701150, 701250, 701350, 701550, 701560, 701650, 701750, 701850, 701950, 702050, 702150, 702250, 702260, 702350, 702450, 702550, 702750, 702850, 702950, 703050, 703150, 703250, 703350, 703360, 703370, 703450, 703550, 703610, 703750, 703850, 703950, 704050, 704150, 704250, 704350, 704450, 704550, 704650, 704750, 704850, 704950, 705050, 705150, 705250, 705350, 705450, 705510 és 705610 kódszámú vadgazdálkodási egységeinek teljes területe,
- Jász-Nagykun-Szolnok megye 750250, 750550, 750650, 750750, 750850, 750970, 750980, 751050, 751150, 751160, 751250, 751260, 751350, 751360, 751450, 751460, 751470, 751550, 751650, 751750, 751850, 751950, 752150, 752250, 752350, 752450, 752460, 752550, 752560, 752650, 752750, 752850, 752950, 753060, 753070, 753150, 753250, 753310, 753450, 753550, 753650, 753660, 753750, 753850, 753950, 753960, 754050, 754150, 754250, 754360, 754370, 754850, 755550, 755650 és 755750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye: 252350, 252450, 252460, 252750, 252850, 252860, 252950, 252960, 253050, 253150, 253250, 253350 és 253450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Nógrád megye 550110, 550120, 550130, 550210, 550310, 550320, 550450, 550460, 550510, 550610, 550710, 550810, 550950, 551010, 551150, 551160, 551250, 551350, 551360, 551450, 551460, 551550, 551650, 551710, 551810, 551821, 552010, 552150, 552250, 552350, 552360, 552450, 552460, 552520, 552550, 552610, 552620, 552710, 552850, 552860, 552950, 552960, 552970, 553050, 553110, 553650 és 554050 kódszámú vadgazdálkodási egységeinek teljes területe,

- Pest megye 570950, 571850, 571950, 572050, 573550, 573650, 574250 és 580150 kódszámú vadgazdálkodási egységeinek teljes területe,
- Szabolcs-Szatmár-Bereg megye 850950, 851050, 851150, 851250, 851350, 851450, 851550, 851560, 851650, 851660, 851751, 851752, 852850, 852860, 852950, 852960, 853050, 853150, 853160, 853250, 853260, 853350, 853360, 853450, 853550, 853560, 853650, 854150, 854250, 854350, 854450, 854550, 854560, 854650, 854660, 854750, 854850, 854860, 854870, 854950, 855050, 855150, 855250, 855350, 855450, 855460, 855550, 855750, 855850, 855950, 855960, 856051, 856150, 856250, 856260, 856350, 856360, 856450, 856550, 856650, 856750, 856760, 856850, 856950, 857050, 857150, 857350, 857450, 857650, valamint 850150, 850250, 850260, 850350, 850450, 850550, 852050, 852150, 852250, 857550, 850650, 850850, 851851 és 851852 kódszámú vadgazdálkodási egységeinek teljes területe.

5. Latvia

The following areas in Latvia:

- Ādažu novads,
- Aizputes novads,
- Aglonas novads,
- Aizkraukles novads,
- Aknīstes novads,
- Alojas novads,
- Alsungas novads,
- Alūksnes novads,
- Amatas novads,
- Apes novads,
- Auces novads,
- Babītes novads,
- Baldones novads,
- Baltnavas novads,
- Balvu novads,
- Bauskas novads,
- Beverīnas novads,
- Brocēnu novads,
- Burtnieku novads,
- Carnikavas novads,
- Cēsu novads,
- Cesvaines novads,
- Ciblas novads,
- Dagdas novads,
- Daugavpils novads,
- Dobeles novads,
- Dundagas novads,
- Durbes novads,
- Engures novads,
- Ērgļu novads,
- Garkalnes novads,
- Gulbenes novads,

- Iecavas novads,
- Ikšķiles novads,
- Ilūkstes novads,
- Inčukalna novads,
- Jaunjelgavas novads,
- Jaunpiebalgas novads,
- Jaunpils novads,
- Jēkabpils novads,
- Jelgavas novads,
- Kandavas novads,
- Kārsavas novads,
- Ķeguma novads,
- Ķekavas novads,
- Kocēnu novads,
- Kokneses novads,
- Krāslavas novads,
- Krimuldas novads,
- Krustpils novads,
- Kuldīgas novads,
- Lielvārdes novads,
- Līgatnes novads,
- Limbažu novads,
- Līvānu novads,
- Lubānas novads,
- Ludzas novads,
- Madonas novads,
- Mālpils novads,
- Mārupes novads,
- Mazsalacas novads,
- Mērsraga novads,
- Naukšēnu novads,
- Neretas novads,
- Ogres novads,
- Olaines novads,
- Ozolnieku novads,
- Pārgaujas novads,
- Pļaviņu novads,
- Preiļu novads,
- Priekules novads,
- Priekuļu novads,
- Raunas novads,
- republikas pilsēta Daugavpils,

- republikas pilsēta Jelgava,
- republikas pilsēta Jēkabpils,
- republikas pilsēta Jūrmala,
- republikas pilsēta Rēzekne,
- republikas pilsēta Valmiera,
- Rēzeknes novads,
- Riebiņu novads,
- Rojas novads,
- Ropažu novads,
- Rugāju novads,
- Rundāles novads,
- Rūjienas novads,
- Salacgrīvas novads,
- Salas novads,
- Salaspils novads,
- Saldus novads,
- Saulkrastu novads,
- Sējas novads,
- Siguldas novads,
- Skrīveru novads,
- Skrundas novads,
- Smiltenes novads,
- Stopiņu novada daļa, kas atrodas uz austrumiem no autoceļa V36, P4 un P5, Acones ielas, Dauguļupes ielas un Dauguļupītes,
- Strenču novads,
- Talsu novads,
- Tērvetes novads,
- Tukuma novads,
- Vaiņodes novads,
- Valkas novads,
- Varakļānu novads,
- Vārkavas novads,
- Vecpiebalgas novads,
- Vecumnieku novads,
- Ventspils novada Ances, Tārgales, Popes, Vārves, Užavas, Piltenes, Puzes, Ziru, Ugāles, Usmas un Zlēku pagasts, Piltenes pilsēta,
- Viesītes novads,
- Viļakas novads,
- Viļānu novads,
- Zilupes novads.

6. Lithuania

The following areas in Lithuania:

- Alytaus miesto savivaldybė,
- Alytaus rajono savivaldybė: Alytaus, Alovės, Butrimonių, Daugų, Nemunaičio, Pivašiūnų, Punios, Raitininkų seniūnijos,
- Anykščių rajono savivaldybė,
- Akmenės rajono savivaldybė,
- Biržų miesto savivaldybė,
- Biržų rajono savivaldybė,
- Druskininkų savivaldybė,
- Elektrėnų savivaldybė,
- Ignalinos rajono savivaldybė,
- Jonavos rajono savivaldybė,
- Joniškio rajono savivaldybė,
- Jurbarko rajono savivaldybė,
- Kaišiadorių rajono savivaldybė,
- Kalvarijos savivaldybė,
- Kauno miesto savivaldybė,
- Kauno rajono savivaldybė: Domeikavos, Garliavos, Garliavos apylinkių, Karmėlavos, Lapių, Linksmakalnio, Neveronių, Rokų, Samylų, Taurakiemio, Vandžiogalos ir Vilkijos seniūnijos, Babtų seniūnijos dalis į rytus nuo kelio A1, Užliedžių seniūnijos dalis į rytus nuo kelio A1 ir Vilkijos apylinkių seniūnijos dalis į vakarus nuo kelio Nr. 1907,
- Kelmės rajono savivaldybė,
- Kėdainių rajono savivaldybė,
- Kupiškio rajono savivaldybė,
- Lazdijų rajono savivaldybė,
- Marijampolės savivaldybė: Degučių, Marijampolės, Mokolų, Liudvinavo ir Narto seniūnijos,
- Mažeikių rajono savivaldybė,
- Molėtų rajono savivaldybė,
- Pagėgių savivaldybė,
- Pakruojo rajono savivaldybė,
- Panevėžio rajono savivaldybė,
- Panevėžio miesto savivaldybė,
- Pasvalio rajono savivaldybė,
- Radviliškio rajono savivaldybė,
- Rietavo savivaldybė,
- Prienų rajono savivaldybė: Stakliškių ir Veiverių seniūnijos,
- Plungės rajono savivaldybė: Babrungo, Alsėdžių, Žlibinų, Stalgėnų, Paukštakių, Platelių ir Žemaičių Kalvarijos seniūnijos,
- Raseinių rajono savivaldybė,
- Rokiškio rajono savivaldybė,
- Skuodo rajono savivaldybės: Aleksandrijos, Barstyčių, Ylakių, Notėnų ir Šačių seniūnijos,
- Šakių rajono savivaldybė,
- Šalčininkų rajono savivaldybė,

- Šiaulių miesto savivaldybė,
- Šiaulių rajono savivaldybė,
- Šilutės rajono savivaldybė,
- Širvintų rajono savivaldybė,
- Šilalės rajono savivaldybė,
- Švenčionių rajono savivaldybė,
- Tauragės rajono savivaldybė,
- Telšių rajono savivaldybė,
- Trakų rajono savivaldybė,
- Ukmergės rajono savivaldybė,
- Utenos rajono savivaldybė,
- Varėnos rajono savivaldybė,
- Vilniaus miesto savivaldybė,
- Vilniaus rajono savivaldybė,
- Vilkaviškio rajono savivaldybė: Bartninkų, Gražiškių, Keturvalakių, Kybartų, Klausučių, Pajevonio, Šeimenos, Vilkaviškio miesto, Virbalio, Vištyčio seniūnijos,
- Visagino savivaldybė,
- Zarasų rajono savivaldybė.

7. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- gminy Kalinowo, Prostki i gmina wiejska Elk w powiecie elckim,
- gminy Elbląg, Gronowo Elbląskie, Milejewo, Młynary, Markusy, Rychliki i Tolkmicko w powiecie elbląskim,
- powiat miejski Elbląg,
- powiat gołdapski,
- gmina Wieliczki w powiecie oleckim,
- powiat piski,
- gmina Górowo Iławeckie z miastem Górowo Iławeckie w powiecie bartoszyckim,
- gminy Biskupiec, Gietrzwałd, Jonkowo, Purda, Stawiguda, Świątki, Olsztynek i miasto Olsztyn oraz część gminy Barczewo położona na południe od linii wyznaczonej przez linię kolejową w powiecie olsztyńskim,
- gmina Miłakowo, część gminy Małdyty położona na południowy – zachód od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga i część gminy Morąg położona na południe od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga w powiecie ostródzkim,
- część gminy Ryn położona na południe od linii wyznaczonej przez linię kolejową łączącą miejscowości Giżycko i Kętrzyn w powiecie giżyckim,
- gminy Braniewo i miasto Braniewo, Frombork, Lelkowo, Pieniężno, Płoskinia oraz część gminy Wilczęta położona na północ od linii wyznaczonej przez drogę nr 509 w powiecie braniewskim,
- gmina Reszel, część gminy Kętrzyn położona na południe od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn biegnącej do granicy miasta Kętrzyn, na zachód od linii wyznaczonej przez drogę nr 591 biegnącą od miasta Kętrzyn do północnej granicy gminy oraz na zachód i na południe od zachodniej i południowej granicy miasta Kętrzyn, miasto Kętrzyn i część gminy Korsze położona na południe od linii wyznaczonej przez drogę biegnącą od wschodniej granicy łączącą miejscowości Kreliekijmy i Sątoczno i na wschód od linii wyznaczonej przez drogę łączącą miejscowości Sątoczno, Sajna Wielka biegnącą do skrzyżowania z drogą nr 590 w miejscowości Glitajny, a następnie na wschód od drogi nr 590 do skrzyżowania z drogą nr 592 i na południe od linii wyznaczonej przez drogę nr 592 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 590 w powiecie kętrzyńskim,

- gminy Lubomino i Orneta w powiecie lidzbarskim,
 - gmina Nidzica w powiecie nidzickim,
 - gminy Dźwierzuty, Jedwabno, Pasym, Szczytno i miasto Szczytno i Świętajno w powiecie szczycieńskim,
 - powiat mrągowski,
 - gmina Zalewo w powiecie iławskim,
- w województwie podlaskim:
- gminy Rudka, Brańsk z miastem Brańsk, i część gminy Boćki położona na zachód od linii wyznaczonej przez drogę nr 19 w powiecie bielskim,
 - powiat grajewski,
 - powiat moniecki,
 - powiat sejneński,
 - gminy Łomża, Piątnica, Jedwabne, Przytuły i Wiznaw powiecie łomżyńskim,
 - powiat miejski Łomża,
 - gminy Dziadkowice, Grodzisk, Mielnik, Nurzec-Stacja i Siemiatycze z miastem Siemiatycze w powiecie siemiatyckim,
 - gminy Białowieża, Czyże, Narew, Narewka, Hajnówka z miastem Hajnówka i część gminy Dubicze Cerkiewne położona na północny wschód od linii wyznaczonej przez drogę nr 1654B w powiecie hajnowskim,
 - gminy Klukowo, Szepietowo, Kobylin-Borzemy, Nowe Piekuty i Sokoły w powiecie wysokomazowieckim,
 - powiat kolneński z miastem Kolno,
 - gminy Czarna Białostocka, Dobrzyniewo Duże, Gródek, Michałowo, Supraśl, Tykocin, Wasilków, Zabłudów, Zawady, Choroszcz i część gminy Poświętne położona na zachód od linii wyznaczonej przez drogę nr 681 w powiecie białostockim,
 - powiat suwalski,
 - powiat miejski Suwałki,
 - powiat augustowski,
 - powiat sokółski,
 - powiat miejski Białystok,
- w województwie mazowieckim:
- powiat siedlecki,
 - powiat miejski Siedlce,
 - gminy Bielany, Ceranów, Kosów Lacki, Repki i gmina wiejska Sokołów Podlaski w powiecie sokołowskim,
 - powiat węgrowski,
 - powiat łosicki,
 - gminy Grudusk, Opinogóra Górna, Gołymień-Ośrodek i część gminy Głinojeck położona na zachód od linii wyznaczonej przez drogę nr 7 w powiecie ciechanowskim,
 - powiat sochaczewski,
 - powiat zwolenński,
 - gminy Garbatka – Letnisko, Gniewoszów i Sieciechów w powiecie kozienickim,
 - powiat lipski,
 - gminy Gózd, Jastrzębia, Jedlnia Letnisko, Pionki z miastem Pionki, Skaryszew, Jedlińsk, Przytyk, Zakrzew, część gminy Wolanów położona na północ od drogi nr 12 i część gminy Iłża położona na wschód od linii wyznaczonej przez drogę nr 9 w powiecie radomskim,
 - gminy Bodzanów, Bulkowo, Staroźreby, Słubice, Wyszogród i Mała Wieś w powiecie płońskim,
 - powiat nowodworski,

- powiat płoński,
 - gminy Pokrzywnica, Świercze i część gminy Winnica położona na zachód od linii wyznaczonej przez drogę łączącą miejscowości Bielany, Winnica i Pokrzywnica w powiecie pułuskim,
 - powiat wołomiński,
 - część gminy Somania położona na południe od linii wyznaczonej przez drogę nr 62 w powiecie wyszkowskim,
 - gminy Borowie, Garwolin z miastem Garwolin, Górzno, Miastków Kościelny, Parysów, Pilawa, Trojanów, Żelechów, część gminy Wilga położona na północ od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia do rzeki Wisły w powiecie garwolińskim,
 - gmina Boguty – Pianki w powiecie ostrowskim,
 - gminy Stupsk, Wiśniewo i część gminy Strzegowo położona na zachód od linii wyznaczonej przez drogę nr 7 w powiecie mławskim,
 - powiat otwocki,
 - powiat warszawski zachodni,
 - powiat legionowski,
 - powiat piaseczyński,
 - powiat pruszkowski,
 - powiat grójecki,
 - powiat grodziski,
 - powiat żyrardowski,
 - gminy Białobrzegi, Promna, Radzanów, Stara Błotnica, Wyśmierzyce w powiecie białobrzeskim,
 - powiat przysuski,
 - powiat miejski Warszawa,
- w województwie lubelskim:
- powiat bialski,
 - powiat miejski Biała Podlaska,
 - gminy Aleksandrów, Biłgoraj z miastem Biłgoraj, Biszczka, Józefów, Księżpol, Łukowa, Obsza, Potok Górny i Tarnogród, część gminy Frampol położona na południe od linii wyznaczonej przez drogę nr 74, część gminy Goraj położona na zachód od linii wyznaczonej przez drogę nr 835, część gminy Terespol położona na południe od linii wyznaczonej przez drogę nr 858, część gminy Turobin położona na zachód od linii wyznaczonej przez drogę nr 835 w powiecie biłgorajskim,
 - powiat janowski,
 - powiat puławski,
 - powiat rycki,
 - gminy Krzywda, Stoczek Łukowski z miastem Stoczek Łukowski, Wola Mysłowska, Trzebieszów, Stanin, gmina wiejska Łuków i miasto Łuków w powiecie łukowskim,
 - gminy Bychawa, Jabłonna, Krzczonów, Garbów Strzyżewice, Wysokie, Bełżyce, Borzechów, Niedrzwica Duża, Konopnica, Wojciechów i Zakrzew w powiecie lubelskim,
 - gminy Rybczewice i Piaski w powiecie świdnickim,
 - gmina Fajslawice, część gminy Żółkiewka położona na północ od linii wyznaczonej przez drogę nr 842 i część gminy Łopiennik Górny położona na zachód od linii wyznaczonej przez drogę nr 17 w powiecie krasnostawskim,
 - powiat hrubieszowski,
 - gminy Krynice, Rachanie, Tarnawatka, Łaszczów, Telatyn, Tyszowce i Ulhówek w powiecie tomaszowskim,
 - gminy Białopole, Chełm, Dorohusk, Dubienka, Kamień, Leśniowice, Ruda – Huta, Sawin, Wojsławice, Żmudź w powiecie chełmskim,
 - powiat miejski Chełm,

- gmina Adamów, Miączyn, Sitno, Komarów-Osada, Krasnobród, Łabunie, Zamość, Grabowiec, część gminy Zwierzyniec położona na południowy-wschód od linii wyznaczonej przez drogę nr 858 i część gminy Skierbieszów położona na wschód od linii wyznaczonej przez drogę nr 843 w powiecie zamojskim,
- powiat miejski Zamość,
- powiat kraśnicki,
- powiat opolski,
- gminy Dębowa Kłoda, Jabłoń, Podedwórze, Sosnowica w powiecie parczewskim,
- gminy Hanna, Stary Brus, Wola Uhruska, Wiryki, gmina wiejska Włodawa oraz część gminy Hańsk położona na wschód od linii wyznaczonej od drogi nr 819 w powiecie włodawskim,
- gmina Kąkolewnica, Komarówka Podlaska i Ulan Majorat w powiecie radzyńskim,

w województwie podkarpackim:

- powiat stalowowolski,
- gminy Horyniec-Zdrój, Cieszanów, Oleszyce, Stary Dzików i Lubaczów z miastem Lubaczów w powiecie lubaczowskim,
- gminy Adamówka i Sieniawa w powiecie przeworskim,
- część gminy Wiązownica położona na północ od linii wyznaczonej przez drogę nr 867 w powiecie jarosławskim,
- gmina Kamień, część gminy Sokołów Małopolski położona na północ od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
- gminy Cmolasy i Majdan Królewski w powiecie kolbuszowskim,
- powiat leżajski,
- powiat niżański,
- powiat tarnobrzeski,

w województwie pomorskim:

- gminy Dzierżgoń i Stary Dzierżgoń w powiecie sztumskim,
- gmina Stare Pole w powiecie malborskim,
- część gminy Nowy Dwór Gdański położona na wschód od linii wyznaczonej przez drogę nr 55 biegnącą od południowej granicy gminy do skrzyżowania z drogą nr 7, następnie przez drogę nr 7 i S7 oraz przez drogę nr 502 biegnącą od skrzyżowania z drogą nr S7 do północnej granicy gminy w powiecie nowodworskim,

w województwie świętokrzyskim:

- gmina Tarłów i część gminy Ożarów położona na północ od linii wyznaczonej przez drogę nr 74 w powiecie opatowskim,

w województwie lubuskim:

- powiat wschowski,
- gminy Bobrowice, Bytnica, Dąbie i Krosno Odrzańskie w powiecie krośnieńskim,
- gminy Bytom Odrzański, Kolsko, Nowe Miasteczko, Siedlisko oraz część gminy Kozuchów położona na południe od linii wyznaczonej przez drogę nr 283 biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 290 i na południe od linii wyznaczonej przez drogę nr 290 biegnącej od miasta Mirocin Dolny do zachodniej granicy gminy w powiecie nowosolskim,
- gminy Babimost, Czerwieńsk, Kargowa, Nowogród Bobrzański, Sulechów, Świdnica, Trzebiechów oraz część gminy Bojadła położona na północ od linii wyznaczonej przez drogę nr 278 biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 282 i na północ od linii wyznaczonej przez drogę nr 282 biegnącej od miasta Bojadła do zachodniej granicy gminy w powiecie zielonogórskim,
- powiat żarski ,
- powiat żagański ,
- gmina Skąpe, część gminy Zbąszynek położona na południe od linii wyznaczonej przez linię kolejową, część gminy Szczaniec położona na południe od linii wyznaczonej przez linię kolejową, część gminy Świebodzin położona na południe od linii wyznaczonej przez linię kolejową w powiecie świebodzińskim,

w województwie dolnośląskim:

- powiat głogowski,
- gmina Gaworzycy i Grębocice w powiecie polkowickim,

w województwie wielkopolskim:

- powiat wolsztyński,
- gminy Rakoniewice i Wielichowo w powiecie grodziskim,
- gmina Wijewo w powiecie leszczyńskim,

w województwie łódzkim:

- gminy Drzewica, Opoczno i Poświętne w powiecie opoczyńskim,
- gmina Sadkowiec w powiecie rawskim.

8. Slovakia

The following areas in Slovakia:

- in the district of Košice – okolie, the whole municipalities of Belza, Bidovce, Blažice, Bohdanovce, Byster, Čaña, Ďurďošik, Ďurkov, Geča, Gyňov, Haniska, Kalša, Kechnec, Kokšov- Bakša, Košická Polianka, Košický Klečenov, Milhošť, Nižná Hutka, Nižná Myšľa, Nižný Čaj, Nižný Olčvár, Nový Salaš, Olšovany, Rákoš, Ruskov, Seňa, Skároš, Sokolany, Slančík, Slanec, Slanská Huta, Slanské Nové Mesto, Svinica, Trstené pri Hornáde, Valaliky, Vyšná Hutka, Vyšná Myšľa, Vyšný Čaj, Vyšný Olčvár, Zdobca and Ždaňa,
- the whole district of Trebišov,
- in the district of Michalovce, the whole municipalities of the district not already included in Part I.

9. Romania

The following areas in Romania:

- Județul Bistrița-Năsăud,
- Județul Suceava.

PART III

1. Bulgaria

The following areas in Bulgaria:

- the whole region of Blagoevgrad,
- the whole region of Dobrich,
- the whole region of Gabrovo,
- the whole region of Kardzhali,
- the whole region of Lovech,
- the whole region of Montana,
- the whole region of Pleven,
- the whole region of Razgrad,
- the whole region of Ruse,
- the whole region of Shumen,
- the whole region of Silistra,
- the whole region of Sliven,
- the whole region of Sofia city,
- the whole region of Sofia Province,
- the whole region of Targovishte,
- the whole region of Vidin,

- the whole region of Varna,
- the whole region of Veliko Tarnovo,
- the whole region of Vratza,
- in Burgas region:
 - the whole municipality of Burgas,
 - the whole municipality of Kameno,
 - the whole municipality of Malko Tarnovo,
 - the whole municipality of Primorsko,
 - the whole municipality of Sozopol,
 - the whole municipality of Sredets,
 - the whole municipality of Tsarevo,
 - the whole municipality of Sungurlare,
 - the whole municipality of Ruen,
 - the whole municipality of Aytos.

2. Lithuania

The following areas in Lithuania:

- Alytaus rajono savivaldybė: Simno, Krokialaukio ir Miroslovo seniūnijos,
- Birštono savivaldybė,
- Kauno rajono savivaldybė: Akademijos, Alšėnų, Batniavos, Čekiškės, Ežerėlio, Kačerginės, Kulautuvos, Raudondvario, Ringaudų ir Zapyškio seniūnijos, Babtų seniūnijos dalis į vakarus nuo kelio A1, Užliedžių seniūnijos dalis į vakarus nuo kelio A1 ir Vilkijos apylinkių seniūnijos dalis į rytus nuo kelio Nr. 1907,
- Kazlų Rudos savivaldybė,
- Marijampolės savivaldybė: Gudelių, Igliaukos, Sasnavos ir Šunskų seniūnijos,
- Prienų rajono savivaldybė: Ašmintos, Balbieriškio, Išlaužo, Jiezno, Naujosios Ūtos, Pakuonio, Prienų ir Šilavotos seniūnijos,
- Vilkaviškio rajono savivaldybės: Gižų ir Pilviškių seniūnijos.

3. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- gminy Bisztynek, Sępólno i Bartoszyce z miastem Bartoszyce w powiecie bartoszyckim,
- gminy Kiwity i Lidzbark Warmiński z miastem Lidzbark Warmiński w powiecie lidzbarskim,
- gminy Srokowo, Barciany, część gminy Kętrzyn położona na północ od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn biegnącej do granicy miasta Kętrzyn oraz na wschód od linii wyznaczonej przez drogę nr 591 biegnącą od miasta Kętrzyn do północnej granicy gminy i część gminy Korsze położona na północ od linii wyznaczonej przez drogę biegnącą od wschodniej granicy łączącą miejscowości Kreliekiejmy i Sątoczno i na zachód od linii wyznaczonej przez drogę łączącą miejscowości Sątoczno, Sajna Wielka biegnącą do skrzyżowania z drogą nr 590 w miejscowości Glitajny, a następnie na zachód od drogi nr 590 do skrzyżowania z drogą nr 592 i na północ od linii wyznaczonej przez drogę nr 592 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 590 w powiecie kętrzyńskim,
- gmina Stare Juchy w powiecie elckim,
- część gminy Wilczęta położona na południe od linii wyznaczonej przez drogę nr 509 w powiecie braniewskim,
- część gminy Morąg położona na północ od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga, część gminy Małdyty położona na północny – wschód od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga w powiecie ostródzkim,
- gminy Godkowo i Pasłęk w powiecie elbląskim,

- gminy Kowale Oleckie, Olecko i Świętajno w powiecie oleckim,
- powiat węgorzewski,
- gminy Krukłanki, Wydminy, Miłki, Giżycko z miastem Giżycko i część gminy Ryn położona na północ od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn w powiecie giżyckim,
- gminy Jeziorany, Kolno, Dywity, Dobre Miasto i część gminy Barczewo położona na północ od linii wyznaczonej przez linię kolejową w powiecie olsztyńskim,

w województwie podlaskim:

- gminy Orla, Wyszki, Bielsk Podlaski z miastem Bielsk Podlaski i część gminy Boćki położona na wschód od linii wyznaczonej przez drogę nr 19 w powiecie bielskim,
- gminy Łapy, Juchnowiec Kościelny, Suraż, Turośń Kościelna, część gminy Poświętne położona na wschód od linii wyznaczonej przez drogę nr 681 w powiecie białostockim,
- gminy Kleszczewo, Czeremcha i część gminy Dubicze Cerkiewne położona na południowy zachód od linii wyznaczonej przez drogę nr 1654B w powiecie hajnowskim,
- gminy Perlejewo, Drohiczyn i Milejczyce w powiecie siemiatyckim,
- gmina Ciechanowiec w powiecie wysokomazowieckim,

w województwie mazowieckim:

- gminy Łaskarzew z miastem Łaskarzew, Maciejowice, Sobolew i część gminy Wilga położona na południe od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia dorzeczki Wisły w powiecie garwolińskim,
- powiat miński,
- gminy Jabłonna Lacka, Sabnie i Sterdyń w powiecie sokołowskim,
- gminy Ojrzeń, Sońsk, Regimin, Ciechanów z miastem Ciechanów i część gminy Gliniojeck położona na wschód od linii wyznaczonej przez drogę nr 7 w powiecie ciechanowskim,
- część gminy Strzegowo położona na wschód od linii wyznaczonej przez drogę nr 7 w powiecie mławskim,
- gmina Nur w powiecie ostrowskim,
- gminy Grabów nad Pilicą, Magnuszew, Głowaczów, Kozienice w powiecie kozienickim,
- gmina Stromiec w powiecie białobrzeskim,

w województwie lubelskim:

- gminy Bełżec, Jarczów, Lubycza Królewska, Susiec, Tomaszów Lubelski i miasto Tomaszów Lubelski w powiecie tomaszowskim,
- gminy Wierzbica, Rejowiec, Rejowiec Fabryczny z miastem Rejowiec Fabryczny, Siedliszcze w powiecie chełmskim,
- gminy Izbica, Gorzków, Rudnik, Kraśniczyn, Krasnystaw z miastem Krasnystaw, Siennica Różana i część gminy Łopiennik Górny położona na wschód od linii wyznaczonej przez drogę nr 17, część gminy Żółkiewka położona na południe od linii wyznaczonej przez drogę nr 842 w powiecie krasnostawskim,
- gmina Stary Zamość, Radecznica, Szczepieszyn, Sułów, Nielisz, część gminy Skierbieszów położona na zachód od linii wyznaczonej przez drogę nr 843, część gminy Zwierzyniec położona na północny-zachód od linii wyznaczonej przez drogę nr 858 powiecie zamojskim,
- część gminy Frampol położona na północ od linii wyznaczonej przez drogę nr 74, część gminy Goraj położona na wschód od linii wyznaczonej przez drogę nr 835, część gminy Terespol położona na północ od linii wyznaczonej przez drogę nr 858, część gminy Turobin położona na wschód od linii wyznaczonej przez drogę nr 835 w powiecie biłgorajskim,
- gmina Urszulín i część gminy Hańsk położona na zachód od linii wyznaczonej przez drogę nr 819 w powiecie włodawskim,
- powiat łęczyński,
- gmina Trawniki w powiecie świdnickim,
- gminy Adamów, Serokomla, Wojcieszków w powiecie łukowskim,
- gminy Milanów, Parczew, Siemień w powiecie parczewskim,
- gminy Borki, Czemierniki, Radzyń Podlaski z miastem Radzyń Podlaski, Wołyni w powiecie radzyńskim,

- powiat lubartowski,
- gminy Głusk, Jastków, Niemce i Wólka w powiecie lubelskim,
- gminy Mełgiew i miasto Świdnik w powiecie świdnickim,
- powiat miejski Lublin,

w województwie podkarpackim:

- gmina Narol w powiecie lubaczowskim,

w województwie lubuskim:

- gminy Nowa Sól i miasto Nowa Sól, Otyń oraz część gminy Kożuchów położona na północ od linii wyznaczonej przez drogę nr 283 biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 290 i na północ od linii wyznaczonej przez drogę nr 290 biegnącej od miasta Miocin Dolny do zachodniej granicy gminy w powiecie nowosolskim,
- gminy Zabór oraz część gminy Bojadła położona na południe od linii wyznaczonej przez drogę nr 278 biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 282 i na południe od linii wyznaczonej przez drogę nr 282 biegnącej od miasta Bojadła do zachodniej granicy gminy w powiecie zielonogórskim,
- powiat miejski Zielona Góra.

4. Romania

The following areas in Romania:

- Zona oraşului Bucureşti,
- Judeţul Constanţa,
- Judeţul Satu Mare,
- Judeţul Tulcea,
- Judeţul Bacău,
- Judeţul Bihor,
- Judeţul Brăila,
- Judeţul Buzău,
- Judeţul Călăraşi,
- Judeţul Dâmboviţa,
- Judeţul Galaţi,
- Judeţul Giurgiu,
- Judeţul Ialomiţa,
- Judeţul Ilfov,
- Judeţul Prahova,
- Judeţul Sălaj,
- Judeţul Vaslui,
- Judeţul Vrancea,
- Judeţul Teleorman,
- Judeţul Mehedinţi,
- Judeţul Gorj,
- Judeţul Argeş,
- Judeţul Olt,
- Judeţul Dolj,
- Judeţul Arad,
- Judeţul Timiş,

- Județul Covasna,
- Județul Brașov,
- Județul Botoșani,
- Județul Vâlcea,
- Județul Iași,
- Județul Hunedoara,
- Județul Alba,
- Județul Sibiu,
- Județul Caraș-Severin,
- Județul Neamț,
- Județul Harghita,
- Județul Mureș,
- Județul Cluj,
- Județului Maramureș.

PART IV

Italy

The following areas in Italy:

- tutto il territorio della Sardegna.'
-

RULES OF PROCEDURE

DECISION OF THE MANAGEMENT BOARD OF THE EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE

of 26 March 2020

on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the European Union Intellectual Property Office

THE MANAGEMENT BOARD,

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

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ⁽¹⁾, and in particular Article 25 thereof,

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark ⁽²⁾, and in particular Article 153 thereof,

Having regard to the Rules of Procedure of the Management Board of the European Union Intellectual Property Office, and in particular Article 9 thereof,

Having regard to the consultation of the European Data Protection Supervisor on 18 December 2019,

Whereas:

- (1) The European Union Intellectual Property Office (the 'Office') carries out its activities in accordance with Regulation (EU) 2017/1001.
- (2) In line with Article 25(1) of Regulation (EU) 2018/1725 restrictions of the application of Articles 14 to 22, 35 and 36, as well as Article 4 of that Regulation insofar as its provisions correspond to the rights and obligations provided for in Articles 14 to 22 should be based on internal rules to be adopted by the Office, where these are not based on legal acts adopted on the basis of the Treaties.
- (3) These internal rules, including their provisions on the assessment of the necessity and proportionality of a restriction, do not apply where a legal act adopted on the basis of the Treaties provides for a restriction of the rights of data subjects.
- (4) Where the Office performs its duties with respect to the rights of data subjects under Regulation (EU) 2018/1725, it shall consider whether any of the exemptions laid down in that Regulation apply.
- (5) Under its administrative functioning, the Office may be obliged to restrict the rights of data subjects following Article 25 of Regulation (EU) 2018/1725.
- (6) The Office, represented by its Executive Director, acts as the data controller irrespective of further delegations of the controller role within the Office to reflect operational responsibilities for specific personal data processing operations.
- (7) The personal data is stored securely in an electronic environment or on paper preventing unlawful access or transfer of data to persons who do not have a need to know. The personal data processed is retained as specified in the data protection notices, privacy statements or records of the Office.

⁽¹⁾ OJ L 295, 21.11.2018, p. 39.

⁽²⁾ OJ L 154, 16.6.2017, p. 1.

- (8) These internal rules should apply to all processing operations carried out by the Office in the context of administrative inquiries, disciplinary proceedings, whistleblowing procedures, (formal and informal) procedures for dealing with harassment, processing complaints and medical data, conducting internal audits, investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and Information Technology (IT) security investigations handled internally or with external involvement (e.g. CERT-EU).
- (9) In cases where these internal rules apply the Office has to explain why the restrictions are strictly necessary and proportionate in a democratic society and respect the essence of fundamental rights and freedoms.
- (10) Within this framework the Office is bound to respect, to the maximum extent possible, the fundamental rights of the data subjects during the above procedures, in particular, those on the right to information, access and rectification, right to erasure, restriction of processing, right of communication of a personal data breach to the data subjects or confidentiality of communication as enshrined in Regulation (EU) 2018/1725.
- (11) The Office should periodically monitor that the conditions that justify the restriction apply and lift the restriction as far as it does no longer apply.
- (12) The Controller should inform the Data Protection Officer of each restriction applied to the data subject's rights, when the restriction has been lifted or when the restriction has been revised.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

1. This Decision lays down rules on the conditions under which the Office in the framework of its processing operations set out in paragraph 2 may restrict the application of the rights enshrined in Articles 4, 14 to 21, 35 and 36 of Regulation (EU) 2018/1725, following Article 25 thereof.

2. Under the administrative functioning of the Office, this Decision applies to the processing of personal data by the Office for the purposes of: administrative inquiries, disciplinary proceedings, whistleblowing procedures, (formal and informal) procedures for dealing with harassment, processing complaints, processing medical data and/or files, conducting internal audits, investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and IT security investigations handled internally or with external involvement (e.g. CERT-EU).

This Decision applies to processing operations initiated and carried out by the Office, including prior to the opening of the procedures referred to above, during these procedures and during the monitoring of the follow-up to the outcome of these procedures. It also applies to assistance and cooperation provided by the Office, outside its own administrative procedures, to OLAF, competent authorities of Member States and/or other competent authorities.

3. The categories of data concerned are hard data ('objective' data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data) and/or soft data ('subjective' data related to the case such as reasoning, behavioural data, appraisals, performance and conduct data and data related to or brought forward in connection with the subject matter of the procedure or activity).

4. Where the Office performs its duties with respect to the rights of data subjects under Regulation (EU) 2018/1725, it shall consider whether any of the exemptions laid down in that Regulation apply.

5. Subject to the conditions set out in this Decision, the restrictions may apply to the following rights: provision of information to data subjects, right of access, rectification, erasure, restriction of processing, communication of a personal data breach to the data subjects or confidentiality of electronic communications.

*Article 2***Specification of the controller and safeguards**

1. The Office shall put in place the following safeguards to prevent abuse or unlawful access or transfer:
 - (a) paper documents shall be kept in secured cupboards and only accessible to authorised staff;
 - (b) all electronic data shall be stored in a secure IT application according to the Office's security standards, as well as in specific electronic folders accessible only to authorised staff. Appropriate levels of access shall be granted individually;
 - (c) IT systems and their databases must have mechanisms for verifying user's identity under a single sign-in system and connected automatically to the user's ID and password. End-user accounts must be unique, personal and non-transferrable, sharing user accounts is strictly prohibited. E-records shall be held securely to safeguard the confidentiality and privacy of the data therein;
 - (d) all persons having access to the data are bound by the obligation of confidentiality.
2. The controller of the processing operations is the Office, represented by its Executive Director, who may delegate the function of the controller. Data subjects shall be informed of the delegated controller by way of the data protection notices or records published on the website and/or the Office's intranet.
3. The retention period of the personal data referred to in Article 1(3) shall be no longer than specified in the data protection notices, privacy statements or records referred to in Article 3(1). At the end of the retention period, the case related information, including personal data, is deleted, anonymised or transferred to the historical archives.
4. Where the Office considers applying a restriction, the risk to the rights and freedoms of the data subject shall be weighed, in particular, against the risk to the rights and freedoms of other data subjects and the risk of hindering the purpose of the processing operation. The risks to the rights and freedoms of the data subject concern primarily, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

*Article 3***Restrictions**

1. The Office shall publish on its website and/or on the intranet data protection notices, privacy statements and/or records in the sense of Article 31 of Regulation (EU) 2018/1725, informing all data subjects of its activities involving processing of their personal data and of their rights in the framework of a given procedure, including information on a potential restriction of these rights. The information shall cover which rights may be restricted, the reasons and the potential duration.
2. Subject to the provisions of paragraph 3, where relevant, the Office shall ensure that the data subjects are informed individually in an appropriate format. The Office may also individually inform them about their rights concerning present or future restrictions.
3. Any restriction initiated by the Office shall only be applied to safeguard the purposes enumerated under Article 25(1) of Regulation (EU) 2018/1725:
 - (a) the national security, public security or defence of the Member States;
 - (b) the prevention, investigation, detection and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
 - (c) other important objectives of general public interest of the Union or of a Member State, in particular the objectives of the common foreign and security policy of the Union or an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
 - (d) the internal security of Union institutions and bodies, including of their electronic communications networks;

- (e) the protection of judicial independence and judicial proceedings;
- (f) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
- (g) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to c);
- (h) the protection of the data subject or the rights and freedoms of others;
- (i) the enforcement of civil law claims.

4. In particular, when the Office restricts in the context of:

- (a) administrative inquiries and disciplinary proceedings, restrictions may be based on Article 25(1)(c), (e), (g), (h) of Regulation (EU) 2018/1725;
- (b) whistleblowing procedures, restrictions may be based on Article 25(1)(h) of Regulation (EU) 2018/1725;
- (c) (formal and informal) procedures for dealing with harassment, restrictions may be based on Article 25(1)(h) of Regulation (EU) 2018/1725;
- (d) processing complaints, restrictions may be based on Article 25(1)(c), (e), (g), (h) of Regulation (EU) 2018/1725;
- (e) processing medical data, restrictions may be based on Article 25(1) (h) of Regulation (EU) 2018/1725;
- (f) internal audits, restrictions may be based on Article 25(1)(c), (g), (h) of Regulation (EU) 2018/1725;
- (g) investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725, restrictions may be based on Article 25(1)(c), (g), (h) of Regulation (EU) 2018/1725;
- (h) IT security investigations handled internally or with external involvement (e.g. CERT-EU), restrictions may be based on Article 25(1)(c), (d), (g), (h) of Regulation (EU) 2018/1725.

5. Any restriction shall be necessary and proportionate taking into account in particular the risks to the rights and freedoms of data subjects and respect the essence of the fundamental rights and freedoms in a democratic society.

If the application of restriction is considered, a necessity and proportionality test shall be carried out based on the present rules. It shall be documented through an internal assessment note for accountability purposes on a case by case basis. The test will also be conducted in the context of reviewing the application of a restriction.

Restrictions shall be lifted as soon as the circumstances that justify them no longer apply. In particular, where it is considered that the exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

6. In addition, the Office may be requested to exchange personal data of data subjects with Commission services or other EU institutions, bodies, agencies and offices, competent authorities of Member States or other competent authorities from third countries or international organisations, including:

- (a) where the Commission services or other EU institutions, bodies, agencies and offices restrict their obligations and the exercise of the rights of these data subjects on the basis of other acts provided for in Article 25 of Regulation (EU) 2018/1725 or in accordance with Chapter IX of that Regulation or with the founding acts of other EU institutions, bodies, agencies and offices;

- (b) where the competent authorities of Member States restrict their obligations and the exercise of the rights of these data subjects on the basis of acts referred to in Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽³⁾, or under national measures transposing Articles 13(3), 15(3) or 16(3) of Directive (EU) 2016/680 of the European Parliament and of the Council ⁽⁴⁾.

Wherever the exchange of personal data is initiated by another authority, no restriction is applied by the Office and the case related information, including personal data, shall be deleted or anonymised by the Office upon transmission of the requested data to that authority.

7. The records on the restrictions and, where applicable, the documents containing underlying factual and legal aspects shall be made available to the European Data Protection Supervisor on request.

Article 4

Review by the Data Protection Officer

1. The Office shall, without undue delay, inform the Data Protection Officer of the Office ('the DPO') whenever the controller restricts the application of the rights of data subjects, lifts the restriction or revises the period of restriction, in accordance with this Decision. The controller shall provide the DPO access to the record containing the assessment of the necessity and proportionality of the restriction and document the date the DPO is informed in the record.
2. The DPO may request the controller in writing to review the application of the restrictions. The controller shall inform the DPO in writing about the outcome of the requested review.
3. The involvement of the DPO in the restrictions procedure, including information exchanges, shall be documented in an appropriate form.

Article 5

Provision of information to data subject

1. In duly justified cases and under the conditions stipulated in this Decision, the provision of information may be restricted by the controller, where necessary and proportionate, in the context of the processing operations provided for in Article 1(2) of this Decision. In particular, the provision of information may be deferred, omitted or denied if it would cancel the effect of the processing operation.
2. Where the Office restricts, wholly or partly, the provision of information referred to in paragraph 1, it shall document in an internal assessment note the reasons for the restriction, including an assessment of the necessity, proportionality of the restriction and its duration.
3. The restriction referred to in paragraph 1 shall continue to apply as long as the reasons justifying it remain applicable.

Where the reasons for the restriction no longer apply, the Office shall provide information to the data subject on the principal reasons for the restriction. At the same time, the Office shall inform the data subject of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy in the Court of Justice of the European Union.

4. The Office shall review the application of the restriction at least once a year and at the closure of the relevant procedure. Thereafter, the controller shall monitor the need to maintain any restriction on an annual basis.

⁽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 (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁴⁾ Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

*Article 6***Right of access, rectification, erasure and restriction of processing by data subject**

1. In duly justified cases and under the conditions stipulated in this Decision, the right to access, rectification, erasure and restriction of processing may be restricted by the controller, where necessary and proportionate, in the context of the processing operations provided for in Article 1(2) of this Decision. The provisions contained in this present Article 6 do not apply to the right of access to medical data and/or files, for which specific rules are explicitly provided for under Article 7 below.

2. Where data subjects request to exercise their right of access, rectification, erasure and restriction of processing concerning their personal data processed in the context of one or more specific cases or concerning a particular processing operation, the Office shall limit its assessment of the request to such personal data only.

3. Where the Office restricts, wholly or partly, the right of access, rectification, erasure and restriction of processing, it shall take the following steps:

- (a) it shall inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons thereof, and of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy in the Court of Justice of the European Union;
- (b) it shall document in an internal assessment note the reasons for the restriction, including an assessment of the necessity, proportionality of the restriction and its duration.

In accordance with Article 25(8) of Regulation (EU) 2018/1725, the provision of information referred to in point (a) may be deferred, omitted or denied if it would cancel the effect of the restriction.

4. The Office shall review the application of the restriction of the rights of the data subjects at least once a year and at the closure of the relevant procedure. Thereafter, upon request of data subjects, the controller shall review the need to maintain the restriction.

*Article 7***Right of access to medical data and/or files**

1. Restriction of the right of access of data subjects to their medical data and/or files requires specific provisions which are stipulated under this article.

2. Subject to the below paragraphs of this article, the Office may restrict data subject's right to access directly personal medical data and/or files of a psychological or psychiatric nature concerning them which are processed by the Office, where access to such data is likely to represent a risk for the data subject's health. This restriction shall be proportionate to what is strictly necessary to protect the data subject.

3. Access to the information referred to in paragraph 2 shall be given to a doctor of the data subject's choice.

4. In such cases, the data subject shall, upon request, be reimbursed by the Medical Service of the part of the cost of the medical consultation with the doctor who received access to the medical data and/or files that has not been reimbursed by the Joint Sickness Insurance Scheme (JSIS). The reimbursement shall not exceed the difference between the ceiling laid down in the General Implementing Provisions for the reimbursement of medical expenses ^(*) and the amount reimbursed to the data subject by the JSIS according to those rules.

5. Such reimbursement by the Medical Service shall be subject to the condition that access has not already been granted for the same data and/or files.

6. Subject to the below paragraphs of this article, the Office may restrict, on a case by case basis data subject's right to access their personal medical data and/or files in its possession, in particular where the exercise of that right would adversely affect the rights and freedoms of the data subject or other data subjects.

(*) Commission Decision C(2007) 3195 of 2 July 2007 laying down General Implementing Provisions for the reimbursement of medical expenses.

7. Where data subjects request to exercise their right of access to their personal data processed in the context of one or more specific cases or to a particular processing operation, the Office shall limit its assessment of the request to such personal data only.

8. Where the Office restricts, wholly or partly, the right of access to personal medical data and/or files by data subjects, it shall take the following steps:

- (a) it shall inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons thereof, and of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy in the Court of Justice of the European Union;
- (b) it shall document in an internal assessment note the reasons for the restriction, including an assessment of the necessity, proportionality of the restriction and its duration, notably by stating how the exercise of the right would present a risk for the data subject's health or would adversely affect the rights and freedoms of the data subjects or other data subjects.

In accordance with Article 25(8) of Regulation (EU) 2018/1725, the provision of information referred to in point (a) may be deferred, omitted or denied if it would cancel the effect of the restriction.

9. Restrictions referred to in the above paragraphs 2 and 6 shall continue to apply as long as the reasons justifying them remain applicable. Once the reasons for a restriction no longer apply, upon request of data subjects, the controller shall review the need to maintain the restriction.

Article 8

Communication of a personal data breach to the data subject and confidentiality of electronic communications

1. In duly justified cases and under the conditions stipulated in this Decision, the right to the communication of a personal data breach may be restricted by the controller, where necessary and appropriate in the context of the processing operations provided for in Article 1(2) of this Decision. This right shall however not be restricted in the context of the procedures for dealing with harassment.

2. In duly justified cases and under the conditions stipulated in this Decision, the right to confidentiality of electronic communications may be restricted by the controller, where necessary and appropriate in the context of the processing operations provided for in Article 1(2) of this Decision.

3. Article 5(2), (3) and (4) of the present Decision applies where the Office restricts the communication of a personal data breach to the data subject or the confidentiality of electronic communications referred to in Articles 35 and 36 of Regulation (EU) 2018/1725.

Article 9

Entry into force

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

Done at Alicante, 26 March 2020.

For the European Union Intellectual Property Office

Jorma HANSKI

Chairperson of the Management Board

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)



Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

EN