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I

(Legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2020/1108

of 20 July 2020

amending Regulation (EU) 2017/2454 as regards the dates of application in response to the COVID-19 pandemic

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Parliament ⁽¹⁾,Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Regulation (EU) No 904/2010 ⁽³⁾ lays down rules on the exchange and storage of information by Member States in order to establish the special schemes provided for by Chapter 6 of Title XII of Council Directive 2006/112/EC ⁽⁴⁾.
- (2) Council Regulation (EU) 2017/2454 ⁽⁵⁾ amends those provisions to extend the scope of those special schemes and introduce a new scheme. Those amendments are to be applied from 1 January 2021.
- (3) On 30 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a public health emergency of international concern. On 11 March 2020, the WHO declared the COVID-19 outbreak a pandemic. The COVID-19 pandemic has affected all Member States. Due to the alarming increase in the number of cases and the lack of efficient means immediately available to deal with the COVID-19 pandemic, numerous Member States have declared a national state of emergency.
- (4) The COVID-19 pandemic constitutes an unexpected and unprecedented emergency that deeply affects all Member States and obliges them to take immediate action at national level to deal with the ongoing crisis as a priority by reallocating resources reserved for other issues. As a result of this crisis, several Member States are encountering difficulties in finalising the development of IT systems necessary for the application of Regulation (EU) 2017/2454 as of 1 January 2021. Some Member States have therefore asked for the postponement of the dates of application of Regulation (EU) 2017/2454.

⁽¹⁾ Opinion of 10 July 2020 (not yet published in the Official Journal).

⁽²⁾ Opinion of 10 June 2020 (not yet published in the Official Journal).

⁽³⁾ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

⁽⁴⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽⁵⁾ Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 348, 29.12.2017, p. 1).

- (5) Taking into consideration the challenges that Member States face in tackling the COVID-19 crisis and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply Regulation (EU) 2017/2454, and ensure the collection and transmission of information and payments under the modified schemes, it is necessary to postpone the dates of application of that Regulation by six months. A postponement of six months is appropriate, as the delay should be kept as short as possible in order to minimise additional budgetary losses for Member States.
- (6) In view of the significant impact of the economic disturbances and possible additional difficulties resulting from the COVID-19 pandemic and in order to support the correct and timely application of the new VAT e-commerce rules, the Commission could work closely with the Member States concerned to monitor the adaptation of the national IT systems and to provide technical assistance whenever needed.
- (7) Regulation (EU) 2017/2454 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2017/2454 is amended as follows:

- (1) in Article 1, point (7) is amended as follows:
 - (a) in point (a), the heading of Section 2 is replaced by the following:
‘Provisions applicable from 1 January 2015 until 30 June 2021’;
 - (b) point (b) is amended as follows:
 - (i) the heading of Section 3 is replaced by the following:
‘Provisions applicable from 1 July 2021’;
 - (ii) Article 47a is replaced by the following:
‘Article 47a

The provisions of this Section shall apply from 1 July 2021.’;

- (2) in Article 2, the second paragraph is replaced by the following:
‘It shall apply from 1 July 2021.’.

Article 2

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

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

Done at Brussels, 20 July 2020.

For the Council
The President
M. ROTH

DECISIONS

COUNCIL DECISION (EU) 2020/1109

of 20 July 2020

amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application in response to the COVID-19 pandemic

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Directive 2006/112/EC ⁽³⁾ was amended by Council Directives (EU) 2017/2455 ⁽⁴⁾ and (EU) 2019/1995 ⁽⁵⁾ to modernise the legal framework for value added tax (VAT) for cross-border business-to-consumer (B2C) e-commerce. The majority of those new provisions are to be applied as of 1 January 2021.
- (2) On 30 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a public health emergency of international concern. On 11 March 2020, the WHO declared the COVID-19 outbreak a pandemic. The COVID-19 pandemic has affected all Member States. Due to the alarming increase in the number of cases and the lack of efficient means immediately available to deal with the COVID-19 pandemic, numerous Member States have declared a national state of emergency.
- (3) The COVID-19 pandemic constitutes an unexpected and unprecedented emergency that deeply affects all Member States and obliges them to take immediate action at national level to tackle the ongoing crisis as a priority by reallocating resources reserved for other issues. As a result of this crisis, several Member States are encountering difficulties in finalising by 31 December 2020 the development of IT systems necessary for the application of the rules laid down in Directives (EU) 2017/2455 and (EU) 2019/1995 as of 1 January 2021. Some Member States as well as postal and courier operators have therefore asked for the postponement of the dates of application of both Directive (EU) 2017/2455 and Directive (EU) 2019/1995.
- (4) Taking into consideration the challenges that Member States face in tackling the COVID-19 crisis and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply the rules laid down in Directives (EU) 2017/2455 and (EU) 2019/1995, and ensure the collection and transmission of information and payments under the modified schemes, it is necessary to postpone the dates of transposition and application of those Directives by six months. A postponement of six months is appropriate, as the delay should be kept as short as possible in order to minimise additional budgetary losses for Member States.

⁽¹⁾ Opinion of 10 July 2020 (not yet published in the Official Journal).

⁽²⁾ Opinion of 10 June 2020 (not yet published in the Official Journal).

⁽³⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽⁴⁾ Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

⁽⁵⁾ Council Directive (EU) 2019/1995 of 21 November 2019 amending Directive 2006/112/EC as regards provisions relating to distance sales of goods and certain domestic supplies of goods (OJ L 310, 2.12.2019, p. 1).

- (5) In view of the significant impact of the economic disturbances and possible additional difficulties resulting from the COVID-19 pandemic and in order to support the correct and timely application of the new VAT e-commerce rules, the Commission could work closely with the Member States concerned to monitor the adaptation of the national IT systems and to provide technical assistance whenever needed.
- (6) Directives (EU) 2017/2455 and (EU) 2019/1995 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Directive (EU) 2017/2455

Directive (EU) 2017/2455 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) the heading is replaced by the following:

‘Amendments to Directive 2006/112/EC with effect from 1 July 2021’;

- (b) the introductory sentence is replaced by the following:

‘With effect from 1 July 2021, Directive 2006/112/EC is amended as follows’;

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

‘Article 3

Amendment to Directive 2009/132/EC

With effect from 1 July 2021, Title IV of Directive 2009/132/EC is deleted.’;

- (3) in Article 4, paragraph 1 is amended as follows:

- (a) the second subparagraph is replaced by the following:

‘Member States shall adopt and publish, by 30 June 2021, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.’;

- (b) the fourth subparagraph is replaced by the following:

‘They shall apply the measures necessary to comply with Articles 2 and 3 of this Directive from 1 July 2021.’.

Article 2

Amendments to Directive (EU) 2019/1995

In Article 2(1) of Directive (EU) 2019/1995, the first and second subparagraphs are replaced by the following:

‘Member States shall adopt and publish, by 30 June 2021 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those measures from 1 July 2021.’.

*Article 3***Entry into force**

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

*Article 4***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 20 July 2020.

For the Council
The President
M. ROTH

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2020/1110

of 23 January 2018

on the conclusion on behalf of the European Union of the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with point (a) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) The Commission has negotiated, on behalf of the European Community and of the Member States, the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part ('the Agreement'), in accordance with the Council Decision authorising the Commission to open negotiations.
- (2) The Agreement was signed on 25 and 30 April 2007, and has been applied provisionally since 30 March 2008.
- (3) The Agreement has been ratified by all Member States. It is intended that Croatia will accede to the Agreement in accordance with Article 6(2) of the Act of Accession annexed to the Treaty of Accession of 5 December 2011.
- (4) The Agreement should be approved.
- (5) The position to be taken, on behalf of the Union, within the Joint Committee set up pursuant to Article 18 of the Agreement as regards matters that are within the competence of the Union should be established on a case-by-case basis in accordance with the applicable Treaty provisions.
- (6) Given that the Union and its Member States together are Party to the Agreement, close cooperation between them is essential. In order to ensure such close cooperation and unity of external representation in the Joint Committee, and without prejudice to the Treaties, in particular to Article 16(1) of the Treaty on European Union and Article 218(9) of the Treaty on the Functioning of the European Union, the positions to be taken, on behalf of the Union and the Member States, within the Joint Committee as regards matters that are within the competence of both the Union and the Member States should be coordinated prior to any meeting of the Joint Committee dealing with such a matter.

⁽¹⁾ Consent of 12 December 2017 (not yet published in the Official Journal).

- (7) Articles 3 to 6 of Decision 2007/339/EC of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council ⁽²⁾, and Articles 2, 3 and 4 of Decision 2010/465/EU of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council ⁽³⁾, contain provisions on decision-making by the Council with regard to various matters set out in the Agreement, as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007, as well as on the establishment of positions to be taken within the Joint Committee and on the information obligations of the Member States, during the provisional application of the Agreement. As the provisions on decision-making by the Council, which are set out in the Treaties, and the provisions on the information obligations of the Member States are no longer necessary, they should cease to apply on the date of entry into force of this Decision. Following the judgment of the Court of Justice of 28 April 2015 in Case C-28/12 ⁽⁴⁾, it is appropriate that the provisions on the establishment of positions to be taken within the Joint Committee also cease to apply on the date of entry into force of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. The Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part, is hereby approved on behalf of the European Union ⁽⁵⁾.
2. The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 26 of the Agreement and shall make the following notification:

‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to “the European Community” in the text of the Agreement are, where appropriate, to be read as to “the European Union”.’.

Article 2

Articles 3 to 6 of Decision 2007/339/EC and Articles 2, 3 and 4 of Decision 2010/465/EU shall cease to apply on 23 January 2018.

Article 3

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

Done at Brussels, 23 January 2018.

For the Council
The President
R. PORODZANOV

⁽²⁾ Decision 2007/339/EC of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council, of 25 April 2007 on the signature and provisional application of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand (OJ L 134, 25.5.2007, p. 1).

⁽³⁾ Decision 2010/465/EU of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council, of 24 June 2010 on the signing and provisional application of the Protocol to Amend the Air Transport Agreement between the United States of America, of the one part, and the European Community and its Member States, of the other part (OJ L 223, 25.8.2010, p. 1).

⁽⁴⁾ Judgment of the Court of Justice of 28 April 2015, European Commission v Council of the European Union, C-28/12, ECLI:EU:C:2015:282.

⁽⁵⁾ The Agreement has been published in OJ L 134, 25.5.2007, p. 4, together with the decision on signature. The Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007, has been published in OJ L 223, 25.8.2010, p. 3, together with the decision on signature.

COUNCIL DECISION (EU) 2020/1111**of 20 July 2020****on the signing, on behalf of the Union, of the Agreement between the European Union and the Government of the People's Republic of China on cooperation on, and protection of, geographical indications**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 10 September 2010, the Council authorised the Commission to open negotiations with the Government of the People's Republic of China for an Agreement on cooperation on, and protection of, geographical indications. The negotiations were successfully concluded by the initialling of the Agreement between the European Union and the Government of the People's Republic of China on cooperation on, and protection of, geographical indications ('the Agreement').
- (2) The Agreement seeks to obtain the highest possible level of protection for geographical indications and to provide instruments to counter deceptive practices and wrongful uses of geographical indications.
- (3) The Agreement should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the Government of the People's Republic of China on cooperation on, and protection of, geographical indications is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

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

Article 3

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

Done at Brussels, 20 July 2020.

For the Council
The President
J. KLOECKNER

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

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2020/1112

of 20 July 2020

amending Implementing Regulation (EU) 2019/2026 as regards the dates of application in response to the COVID-19 pandemic

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Implementing Regulation (EU) No 282/2011 ⁽²⁾ lays down detailed provisions for special schemes for taxable persons supplying certain services to non-taxable persons.
- (2) Council Implementing Regulation (EU) 2019/2026 ⁽³⁾ amends those provisions to extend the scope of existing special schemes and introduce a new scheme in order to modernise the legal framework for value added tax (VAT) for cross-border business-to-consumer (B2C) e-commerce. Those amendments are to be applied from 1 January 2021.
- (3) On 30 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a public health emergency of international concern. On 11 March 2020, the WHO declared the COVID-19 outbreak a pandemic. The COVID-19 pandemic has affected all Member States. Due to the alarming increase in cases and the lack of efficient means immediately available to deal with the COVID-19 pandemic, numerous Member States have declared a national state of emergency.
- (4) The COVID-19 pandemic constitutes an unexpected and unprecedented emergency that deeply affects all Member States and obliges them to take immediate action at national level to deal with the ongoing crisis as a priority by reallocating resources reserved for other issues. As a result of this crisis, several Member States are encountering difficulties in finalising the development of IT systems necessary for the application of Implementing Regulation (EU) 2019/2026 as of 1 January 2021. Several Member States as well as postal and courier operators have therefore asked for the postponement of the dates of application of Implementing Regulation (EU) 2019/2026.
- (5) Taking into consideration the challenges that Member States face in tackling the COVID-19 crisis and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply Implementing Regulation (EU) 2019/2026, and ensure the collection and transmission of information and payments under the modified schemes, it is necessary to postpone the dates of application of that Implementing Regulation by six months. A postponement of six months is appropriate, as the delay should be kept as short as possible in order to minimise additional budgetary losses for Member States.
- (6) In view of the significant impact of the economic disturbances and possible additional difficulties resulting from the COVID-19 pandemic and in order to support the correct and timely application of the new VAT e-commerce rules, the Commission could work closely with the Member States concerned to monitor the adaptation of the national IT systems and to provide technical assistance whenever needed.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

⁽³⁾ Council Implementing Regulation (EU) 2019/2026 of 21 November 2019 amending Implementing Regulation (EU) No 282/2011 as regards supplies of goods or services facilitated by electronic interfaces and the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods (OJ L 313, 4.12.2019, p. 14).

(7) Implementing Regulation (EU) 2019/2026 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2019/2026 is amended as follows:

(1) in point (5) of Article 1, the new paragraph 1 of Article 61 of Implementing Regulation (EU) No 282/2011 is replaced by the following:

‘1. Changes to the figures contained in a VAT return relating to periods up to and including the second return period in 2021 shall, after the submission of that VAT return, be made only by means of amendments to that return and not by adjustments in a subsequent return.

Changes to the figures contained in a VAT return relating to periods from the third return period in 2021 shall, after the submission of that VAT return, be made only by adjustments in a subsequent return.’;

(2) in Article 2, the second and third paragraphs are replaced by the following:

‘It shall apply from 1 July 2021.

However, Member States shall allow taxable persons and intermediaries acting on their behalf to submit the information required under Articles 360, 369c or 369o of Directive 2006/112/EC for registration under the special schemes as from 1 April 2021.’.

Article 2

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

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

Done at Brussels, 20 July 2020.

For the Council
The President
M. ROTH

DECISIONS

COUNCIL DECISION (EU) 2020/1113

of 20 July 2020

on the position to be taken on behalf of the European Union within the EPA Committee established under the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part, regarding the adoption of the Rules of Procedure of the EPA Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) and Article 209, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part ⁽¹⁾ (the 'Agreement'), was signed by the Union and its Member States on 28 July 2016. It has been provisionally applied between the Union, of the one part, and Ghana, of the other part, since 15 December 2016 ⁽²⁾.
- (2) Pursuant to Article 73(3) of the Agreement, the Economic Partnership Agreement ('EPA') Committee is responsible for the administration in all fields covered by the Agreement and the achievement of all tasks mentioned in the Agreement. Pursuant to Article 73(2) the EPA Committee determines its organisation and functioning rules.
- (3) The EPA Committee is to adopt a decision with regard to its Rules of Procedure in 2020.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the EPA Committee, as the envisaged EPA Committee decision will establish legally binding rules for the functioning of the EPA Committee.
- (5) EPAs form part of the overall relationship between the Union and its Member States, on the one side, and the ACP countries, on the other, as set out in the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part ⁽³⁾, as last amended (the 'Cotonou Partnership Agreement') and, once applicable, its successor agreement. Under Article 34(1) of the Cotonou Partnership Agreement, economic and trade cooperation between the parties aims at fostering the smooth and gradual integration of the ACP countries into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries. In this context, EPAs can be considered to constitute development instruments as referred to in Article 36(2) of the Cotonou Partnership Agreement. The Agreement therefore takes account of the different levels of development of the Parties, as well as of the particular economic and social constraints of Ghana and of its capacity to adapt and to adjust its economy to the liberalisation process. Furthermore, Decision (EU) 2016/1850 on the signature and provisional application of the Agreement, which is a mixed agreement and includes a title on partnership for development, was founded on both the legal basis for trade and the legal basis for development cooperation. That should be reflected also in this Decision,

⁽¹⁾ Stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, on the other part (OJ L 287, 21.10.2016, p. 3).

⁽²⁾ Council Decision (EU) 2016/1850 of 21 November 2008 on the signature and provisional application of the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part (OJ L 287, 21.10.2016, p. 1).

⁽³⁾ OJ L 317, 15.12.2000, p. 3.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf shall be based on the draft decision of the EPA Committee regarding the adoption of the Rules of Procedure of the EPA Committee ⁽⁴⁾.

Article 2

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

Done at Brussels, 20 July 2020.

For the Council
The President
J. KLOECKNER

⁽⁴⁾ See document ST 9240/20 on <http://register.consilium.europa.eu>

COUNCIL IMPLEMENTING DECISION (EU) 2020/1114
of 23 July 2020
approving amendments to the Rules of Procedure of Eurojust

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA ⁽¹⁾, and in particular Article 5(5) thereof,

Having regard to the Rules of Procedure of Eurojust ⁽²⁾, as adopted on 20 December 2019,

Whereas:

- (1) The College of Eurojust (the 'College') may amend the Rules of Procedure of Eurojust (the 'Rules of Procedure') following the same procedure for their adoption upon a proposal of the Executive Board or of one-third of the members of the College, in accordance with Article 5(5) of Regulation (EU) 2018/1727 and Article 18 of the Rules of Procedure. Such amendments to the Rules of Procedure are to be approved by the Council by means of implementing acts.
- (2) Draft amendments to the Rules of Procedure were approved, in accordance with Article 5(5) of Regulation (EU) 2018/1727, by the College on 14 July 2020.
- (3) The amendments to the Rules of Procedure should be approved by the Council.
- (4) Denmark is not bound by Regulation (EU) 2018/1727 and is therefore not taking part in the adoption and application of this Decision, which implements Regulation (EU) 2018/1727.
- (5) Ireland is bound by Regulation (EU) 2018/1727 and is therefore taking part in the adoption and application of this Decision, which implements Regulation (EU) 2018/1727,

HAS ADOPTED THIS DECISION:

Article 1

The amendments to the Rules of Procedure of Eurojust attached to this Decision are hereby approved.

Article 2

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

Done at Brussels, 23 July 2020.

For the Council
The President
M. ROTH

⁽¹⁾ OJ L 295, 21.11.2018, p. 138.

⁽²⁾ OJ L 50, 24.2.2020, p. 1.

ANNEX

AMENDMENTS TO THE RULES OF PROCEDURE OF EUROJUST

THE COLLEGE OF EUROJUST,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 85 thereof,

Having regard to Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust) and replacing and repealing Council Decision 2002/187/JHA, ⁽¹⁾ hereinafter referred to as 'the Eurojust Regulation', and in particular Article 5(5) thereof,

Having regard to the Rules of Procedure of Eurojust ⁽²⁾ approved by the Council by Implementing Decision (EU) 2019/2250 of 19 December 2019 ⁽³⁾ and adopted by the College on 20 December 2019, hereinafter referred to as the 'Rules of Procedure', and in particular Articles 2, 3, 5 and 18 thereof,

Whereas:

In accordance with Article 5(5) of the Eurojust Regulation and Article 18 of the Rules of Procedure, the College may amend Eurojust's Rules of Procedure following the same procedure for their adoption upon a proposal of the Executive Board or one-third of the members of the College. Any amendment shall be on the basis of a two-thirds majority of the members of the College. In the event that an agreement cannot be reached by a two-thirds majority, the decision shall be taken by simple majority during the next meeting of the College.

The Member States, in response to the COVID-19 pandemic, have taken a number of extraordinary preventive and containment measures. Those measures have made it very difficult or impossible for the members of the College to be physically present at College meetings held on Eurojust premises or at any alternative location. This, in turn, has made it problematic to reach the quorum required by Article 6(1) of the Rules of Procedure and for the College to hold formal meetings and ensure decision-making.

It has become necessary for the Rules of Procedure to allow the College to hold meetings using technical means, including via video conference, when extraordinary events or circumstances beyond the control of the members of the College prevent the College from meeting in accordance with the requirements of Articles 2, 3, 5(2) and 6(1) of the Rules of Procedure, in order to ensure institutional business continuity,

HAS DECIDED AS FOLLOWS:

*Article 1***Amendments to the Rules of Procedure**

Article 2 of the Rules of Procedure is hereby amended as follows:

A new paragraph (13) is added:

'In accordance with the requirements of the second paragraph of Article 5(2) of these Rules of Procedure, meetings of the College for the election of the President may be organised using technical means, including via video conference. These technical means shall allow for anonymous electronic voting by members of the College to safeguard confidentiality and for verification of their participation in that process. The other provisions of this article apply to these meetings *mutatis mutandis*'.

Article 3 of the Rules of Procedure is hereby amended as follows:

Paragraph 3 is replaced as follows:

'The procedure for the election of the President in Article 2(3) to (13) of these Rules of Procedure shall apply *mutatis mutandis* to the election of the Vice-Presidents without prejudice to paragraph 4 of this article.'

⁽¹⁾ OJ L 295, 21.11.2018, p. 138.

⁽²⁾ OJ L 50, 24.2.2020, p. 1.

⁽³⁾ OJ L 336, 30.12.2019, p. 309.

Article 5 of the Rules of Procedure is hereby amended as follows:

In paragraph 2, the following second paragraph is added:

'In case of extraordinary events or circumstances beyond the control of the members of the College (*force majeure*) and when the College cannot meet under the requirements of this paragraph of the Rules of Procedure, the College may decide, in accordance with Article 7 of these Rules of Procedure, to organise its meetings using technical means, including via video conference. A decision of the College shall determine the duration of this measure. That decision of the College may be renewed in so far as the extraordinary events or circumstances (*force majeure*) persist. Such meetings of the College may be organised provided that the available technical means allow for the members of the College to be identified and participate in the discussions ensuring collegiality of deliberations. The provisions of Articles 5 and 6 of these Rules of Procedure apply to these meetings *mutatis mutandis*.'

Article 2

Entry into force and publication

These amendments to the Rules of Procedure of Eurojust shall enter into force on the date of their adoption.

These amendments to the Rules of Procedure shall be published in the *Official Journal of the European Union*.

COUNCIL DECISION (EU) 2020/1115**of 24 July 2020**

on the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, as regards the adoption of amendments to Protocols 1 and 4 to the Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part ('the Agreement'), was concluded by the European Community, by means of Council Decision 97/126/EC ⁽¹⁾, and entered into force on 1 January 1997.
- (2) Pursuant to Article 34 of the Agreement, the Joint Committee established under Article 31 of the Agreement ('the Joint Committee') may amend the provisions of the Protocols to the Agreement.
- (3) Following negotiations, the Union and the Home Government of the Faroe Islands have agreed to amend certain provisions of the Protocols to the Agreement, namely, Protocol 1, concerning the tariff treatment and arrangements applicable to certain fish and fishery products released for free circulation in the Community or imported into the Faroes, and Protocol 4, concerning the special provisions applicable to imports of certain agricultural products other than those listed in Protocol 1. Those amendments aim at broadening the scope of market access for both Parties in selected products.
- (4) The Joint Committee is to adopt a decision regarding the amendments to Protocols 1 and 4.
- (5) It is appropriate to establish the position to be taken on the Union's behalf within the Joint Committee, as regards the adoption of the amendments to Protocols 1 and 4, as the decision amending those Protocols will be binding on the Union,

HAS ADOPTED THIS DECISION:

Sole Article

The position to be taken on the Union's behalf in the Joint Committee regarding amendments to Protocols 1 and 4 to the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, shall be based on the draft decision of the Joint Committee ⁽²⁾.

Done at Brussels, 24 July 2020.

For the Council
The President
M. ROTH

⁽¹⁾ Council Decision 97/126/EC of 6 December 1996 concerning the conclusion of an agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (OJ L 53, 22.2.1997, p. 1).

⁽²⁾ See Document ST 9385/20 on <http://register.consilium.europa.eu>

COUNCIL DECISION (EU) 2020/1116
of 24 July 2020
appointing a member of the Court of Auditors

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 286(2) thereof,

Having regard to the proposal by the Republic of Austria,

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

Whereas:

- (1) The term of office of Mr Oskar HERICS expired on 29 February 2020.
- (2) A new member should therefore be appointed to the Court of Auditors,

HAS ADOPTED THIS DECISION:

Article 1

Ms Helga BERGER is hereby appointed member of the Court of Auditors for the period from 1 August 2020 to 31 July 2026.

Article 2

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

Done at Brussels, 24 July 2020.

For the Council
The President
M. ROTH

⁽¹⁾ Opinion of 8 July 2020 (not yet published in the Official Journal).

COUNCIL IMPLEMENTING DECISION (EU) 2020/1117
of 27 July 2020
appointing the European Prosecutors of the European Public Prosecutor's Office

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') ⁽¹⁾, and in particular Article 16 thereof,

Having regard to Council Implementing Decision (EU) 2018/1696 of 13 July 2018 on the operating rules of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') ⁽²⁾,

Having regard to Council Decision (EU) 2018/1275 of 18 September 2018 appointing the members of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939 ⁽³⁾,

Having regard to Council Implementing Decision (EU) 2019/598 of 9 April 2019 on the transitional rules for the appointment of European Prosecutors for and during the first mandate period, provided for in Article 16(4) of Regulation (EU) 2017/1939 ⁽⁴⁾,

Having regard to the reasoned opinions and the ranking of the candidates drawn up by the selection panel,

Whereas:

- (1) The European Public Prosecutor's Office (EPPO) was established by Regulation (EU) 2017/1939. The Commission is responsible for the establishment and initial administrative operation of the EPPO until the latter has the capacity to implement its own budget.
- (2) The European Prosecutors are to supervise investigations and prosecutions in accordance with Article 12 of Regulation (EU) 2017/1939.
- (3) In accordance with the second subparagraph of Article 120(2) of Regulation (EU) 2017/1939, the EPPO is to assume the investigative and prosecutorial tasks conferred on it by that Regulation on a date to be determined by a decision of the Commission on a proposal of the European Chief Prosecutor once the EPPO is set up.
- (4) The European Chief Prosecutor was appointed by Decision (EU) 2019/1798 of the European Parliament and of the Council ⁽⁵⁾. To establish the EPPO College, which consists of the European Chief Prosecutor and one European Prosecutor per participating Member State, it is necessary for the Council to appoint the European Prosecutors.
- (5) Implementing Decision (EU) 2018/1696 lays down the operating rules of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939 (the 'operating rules of the selection panel').
- (6) Pursuant to Article 16(1) of Regulation (EU) 2017/1939, each participating Member State is to nominate three candidates for the position of European Prosecutor from among candidates who are active members of the public prosecution service or judiciary of the relevant Member State, whose independence is beyond doubt and who possess the qualifications required for appointment to high prosecutorial or judicial office in their respective Member States, and who have relevant practical experience of national legal systems, of financial investigations and of international judicial cooperation in criminal matters.

⁽¹⁾ OJ L 283, 31.10.2017, p. 1.

⁽²⁾ OJ L 282, 12.11.2018, p. 8.

⁽³⁾ OJ L 238, 21.9.2018, p. 92.

⁽⁴⁾ OJ L 103, 12.4.2019, p. 29.

⁽⁵⁾ Decision (EU) 2019/1798 of the European Parliament and of the Council of 23 October 2019 appointing the European Chief Prosecutor of the European Public Prosecutor's Office (OJ L 274, 28.10.2019, p. 1).

- (7) The selection panel drew up the reasoned opinions and the ranking for each of the nominated candidates who fulfilled the conditions set out in Article 16(1) of Regulation (EU) 2017/1939 and submitted them to the Council, which received them on 29 May, 20 June, 11 October, 18 November and 10 December 2019, and on 16 July 2020.
- (8) Pursuant to the fourth paragraph of Rule VII.2 of the operating rules of the selection panel, the selection panel ranked the candidates according to their qualifications and experience. The ranking indicates the selection panel's order of preference and is not binding on the Council.
- (9) In accordance with Article 16(2) of Regulation (EU) 2017/1939, after having received the reasoned opinions of the selection panel, the Council is to select and appoint one of the candidates to be the European Prosecutor of the participating Member State in question.
- (10) In accordance with Article 16(3) of Regulation (EU) 2017/1939, the Council, acting by simple majority, is to select and appoint the European Prosecutors for a non-renewable term of 6 years. The Council may decide to extend the mandate for a maximum of 3 years at the end of the 6-year period.
- (11) Implementing Decision (EU) 2019/598 lays down transitional rules for the appointment of European Prosecutors for and during the first mandate period following the entry into force of Regulation (EU) 2017/1939. In accordance with Article 2(1) of Implementing Decision (EU) 2019/598, before the appointment of European Prosecutors, a group comprising one third of the number of participating Member States at the time of application of those transitional rules is to be determined by drawing lots. The drawing of lots was held on 20 May 2019 and the Member States in that group are Greece, Spain, Italy, Cyprus, Lithuania, the Netherlands, Austria and Portugal. Article 3 of that Implementing Decision provides that the term of office of the European Prosecutors from the Member States included in that group is to be three years and not renewable.
- (12) The Council assessed the respective merits of the candidates taking into account the reasoned opinions submitted by the selection panel. With regard to the reasoned opinion concerning the candidates nominated by Malta, the grounds put forward by the selection panel sufficiently establish that given the exceptional circumstances in that Member State, it is objectively impossible for that Member State to find further eligible candidates within a reasonable time, in spite of the fact that that Member State has deployed all necessary efforts to do so. Therefore, the conditions set out in the third paragraph of Rule VII.2. of the operating rules of the selection panel are met. In the light of the above-mentioned exceptional circumstances, the Council considered that the reasoned opinion submitted with regard to candidates nominated by Malta offered it sufficient choice of suitable candidates and, since any further delay in the appointment of the European Prosecutors would have serious adverse consequences on the effectiveness of European Union law, decided to proceed on that basis.
- (13) As a result of that assessment, the Council followed the non-binding order of preference indicated by the selection panel for the candidates nominated by Czechia, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Austria, Romania, Slovenia, Slovakia and Finland. As regards the candidates nominated by Belgium, Bulgaria and Portugal, the Council did not follow the non-binding order of preference of the selection panel, on the basis of a different assessment of the merits of those candidates which was carried out in the relevant preparatory bodies of the Council,

HAS ADOPTED THIS DECISION:

Article 1

The following persons are hereby appointed European Prosecutors of the EPPO as temporary agents at grade AD 13 for a non-renewable period of six years from 29 July 2020:

Mr Yves VAN DEN BERGE ⁽⁶⁾

Ms Teodora GEORGIEVA ⁽⁷⁾

Mr Petr KLEMENT ⁽⁸⁾

Mr Andrés RITTER ⁽⁹⁾

⁽⁶⁾ Nominated by Belgium.

⁽⁷⁾ Nominated by Bulgaria.

⁽⁸⁾ Nominated by Czechia.

⁽⁹⁾ Nominated by Germany.

Ms Kristel SIITAM-NYIRI ⁽¹⁰⁾
Mr Frédéric BAAB ⁽¹¹⁾
Ms Tamara LAPTOŠ ⁽¹²⁾
Mr Gatis DONIKS ⁽¹³⁾
Mr Gabriel SEIXAS ⁽¹⁴⁾
Ms Yvonne FARRUGIA ⁽¹⁵⁾
Mr Cătălin-Laurențiu BORCOMAN ⁽¹⁶⁾
Mr Jaka BREZIGAR ⁽¹⁷⁾
Mr Juraj NOVOCÝ ⁽¹⁸⁾
Mr Harri TIESMAA ⁽¹⁹⁾

Article 2

The following persons are hereby appointed European Prosecutors of the EPPO as temporary agents at grade AD 13 for a non-renewable period of three years from 29 July 2020:

Mr Dimitrios ZIMIANITIS ⁽²⁰⁾
Ms María Concepción SABADELL CARNICERO ⁽²¹⁾
Mr Danilo CECCARELLI ⁽²²⁾
Ms Katerina LOIZOU ⁽²³⁾
Mr Tomas KRUŠNA ⁽²⁴⁾
Ms Daniëlle GOUDRIAAN ⁽²⁵⁾
Ms Ingrid MASCHL-CLAUSEN ⁽²⁶⁾
Mr José Eduardo MOREIRA ALVES D'OLIVEIRA GUERRA ⁽²⁷⁾

Article 3

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

Done at Brussels, 27 July 2020.

For the Council
The President
M. ROTH

⁽¹⁰⁾ Nominated by Estonia.
⁽¹¹⁾ Nominated by France.
⁽¹²⁾ Nominated by Croatia.
⁽¹³⁾ Nominated by Latvia.
⁽¹⁴⁾ Nominated by Luxembourg.
⁽¹⁵⁾ Nominated by Malta.
⁽¹⁶⁾ Nominated by Romania.
⁽¹⁷⁾ Nominated by Slovenia.
⁽¹⁸⁾ Nominated by Slovakia.
⁽¹⁹⁾ Nominated by Finland.
⁽²⁰⁾ Nominated by Greece.
⁽²¹⁾ Nominated by Spain.
⁽²²⁾ Nominated by Italy.
⁽²³⁾ Nominated by Cyprus.
⁽²⁴⁾ Nominated by Lithuania.
⁽²⁵⁾ Nominated by the Netherlands.
⁽²⁶⁾ Nominated by Austria.
⁽²⁷⁾ Nominated by Portugal.

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