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COMMISSION IMPLEMENTING DECISION (EU) .../...

of 19.12.2022

**on establishing the framework for allocating costs related to borrowing and debt
management operations under the diversified funding strategy**

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THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012¹, and in particular Article 220a thereof,

Whereas:

- (1) Regulation (EU, Euratom) 2022/2434² introduces the diversified funding strategy as a single funding method for the implementation of borrowing and debt management operations carried out by the Commission into Regulation (EU, Euratom) 2018/1046 (the 'Financial Regulation'). After the entry into force of Regulation (EU, Euratom) 2022/2434 the diversified funding strategy is to apply to programmes of financial assistance for which the basic acts enter into force on or after 9 November 2022.
- (2) The Commission should establish the necessary arrangements for the implementation of the diversified funding strategy. The application of the diversified funding strategy requires the adoption of a set of rules to determine the allocation of respective costs to the relevant financial assistance programmes, which should ensure that all costs incurred by the Union that relate to financial assistance are to be charged to the beneficiary.
- (3) The methodology for allocating costs related to the implementation of the diversified funding strategy under NextGenerationEU (NGEU) has been established by Commission Implementing Decision (EU) 2021/1095³. It is appropriate to extend these arrangements to borrowing and debt management operations carried out under the diversified funding strategy pursuant to Article 220a of the Financial Regulation.
- (4) The repayment obligations should remain with the beneficiaries of the financial assistance, in compliance with Article 220(5), point (e) of the Financial Regulation

¹ OJ L 193, 30.7.2018, p. 1.

² OJ L 319, 13.12.2022, p. 1.

³ Commission Implementing Decision (EU) 2021/1095 of 2 July 2021 establishing the methodology for allocating costs related to borrowing and debt management operations under NextGenerationEU under Council Decision (EU, Euratom) 2020/2053 and for the lending operations related to loans granted in accordance with Article 15 of Regulation (EU) 2021/241 of the European Parliament and of the Council (OJ L 236, 5.7.2021, p. 75).

and in line with the budgetary principles of sound financial management and equilibrium. All costs should be charged to the beneficiaries based on a single cost allocation methodology that ensures transparent and proportional allocation of costs.

- (5) The cost allocation methodology should ensure that there is no cross-subsidisation of costs by one category of beneficiary by another. Costs of loans should be fully imputed to the beneficiaries of those loans, on the one hand, and costs of non-repayables to the EU Budget, on the other hand, based on actual costs incurred for raising and disbursing the respective share of proceeds to the different beneficiaries. The methodology should cover all the costs incurred by the Union for borrowing and debt management operations, including all administrative costs, and should ensure that different categories of costs be calculated for each disbursement.
- (6) To ensure fair and equal treatment between beneficiaries, the Commission should implement a common and unified methodology for costs, applicable to all type of disbursements (those repaid by the Union budget, and those repaid by beneficiaries), that impute costs to the beneficiaries on the basis of the share of proceeds received.
- (7) This cost calculation and allocation methodology should distinguish between three categories of cost: the cost of funding, the cost of liquidity management and administrative costs. The cost of funding derives from the interest rate and other charges that the Commission must pay on the different instruments issued to finance the disbursements in question. The costs of liquidity management are the costs incurred as a result of amounts issued and held temporarily on liquidity accounts as reserves to meet upcoming payments. This ongoing operational overhead is an intrinsic feature of the diversified funding strategy and should be shared fairly across all beneficiaries. The third cost category are the administrative costs of building the technical and operational capacity to implement a diversified funding strategy and which arise clearly as a result of the implementation of the diversified funding strategy.
- (8) The fair and proportionate attribution of costs shall be conducted via the compartmentalisation of disbursements and related funding instruments into time-periods (hereafter ‘time compartments’). Pre-existing disbursements and related borrowing transactions issued under the diversified funding strategy, that are already assigned to time compartments shall remain unaffected by the addition of disbursements under programmes of financial assistance within the scope of Article 220a of the Financial Regulation. From the start of such loan disbursements onwards, any disbursement funded through the diversified funding strategy, will have its costs calculated and attributed identically. The paramount advantage of this approach is that the cost of funding is the same for all disbursements attributed to the same time-compartment ensuring that borrowings are tailored to disbursement needs.
- (9) It should be ensured that there is no impact on costs distribution for any of the programmes to which the cost allocation methodology would apply. The cost allocation methodology would as of its adoption apply to NGEU borrowings and the loans under Regulation (EU) 2022/2463⁴, which have similar duration and structure. Therefore, it is possible to include them into the same time compartments. If a new programme of financial assistance is established, with a different duration and

⁴ Regulation (EU) 2022/2463 of the European Parliament and of the Council establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L 322, 16.12.2022, p. 1–14)

structure, likely to have an impact on the costs, this methodology should be reviewed as appropriate.

- (10) The calculation of the cost of funding that results from borrowing transactions should be derived from the costs arising from all borrowing operations during the six-month time period around the date of the disbursement. This compartmentalisation of funding costs is needed to ensure that the cost of funding charged to the disbursement is closely linked to the prevailing market rates at the time at which it is made. This approach means that the precise cost of funding is fixed only upon completion of the funding pool at the closure of the six-month time compartment, but indicative prices will be available to loan beneficiaries prior to the final costing. Loan beneficiaries or, for the external assigned revenue under Article 3(1) of Regulation 2020/2094⁵, the EU budget should pay the same charge. This avoids arbitrariness or chance that characterises the traditional back-to-back method where the costs for any particular beneficiary were the terms that could be obtained on the particular day that the borrowing took place.
- (11) Each time compartment should be active during a period of six months starting on 1 January or on 1 July. However, the first time compartment should cover the period from 1 June 2021 until 31 December 2021 as referred to in article 4 of the Decision.
- (12) While the cost of funding may vary between the six-month time compartments because of differences in funding conditions beyond the control of the Commission, the Commission will manage borrowing and debt management operations in order to ensure that each time compartment bears similar maturity profiles to the greatest extent possible.
- (13) The Commission's funding strategy enables better management of interest rate risk and other financial risks. While interest rates charged to loan beneficiaries will be stable, periodic and marginal recalculation of rates will be necessary when maturing instruments in the funding pool need to be replaced. If warranted, the Commission will develop its capacity to use derivatives such as swaps to manage any remaining interest rate risk and offer the option of fixed interest rate loans to a beneficiary. The costs of this fixed interest rate facility should be borne fully and exclusively by the beneficiary exercising this option.
- (14) The amounts of disbursements in a time compartment should equal the amount of long-term funding instruments attributed to that time compartment. In most cases, the disbursement of proceeds will occur in and be attributed to the same time compartment as the issuance of the long-term funding instruments used to raise the proceeds. However, unforeseen delays in making the disbursement may result in situations where the proceeds of the long-term funding have been raised but cannot be disbursed as initially scheduled. Under this scenario, the disbursement may be delayed from one time compartment to the following time compartment. However, if the funds for these particular funding needs have already been raised and attributed to the previous time compartment, they cannot be used for other needs in this time compartment. Under these circumstances, it should be possible to attribute disbursements to the time compartment to which the funding instruments have been issued. It should equally be possible to attribute long-term funding instruments of the following time compartment to the previous time compartment in case the amount of

⁵ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433I , 22.12.2020, p. 23).

long-term funding instruments of that time compartment is not sufficient to cover the amount of disbursements.

- (15) The Commission will also need some means to anticipate, in the preceding time compartment, disbursement needs arising early in the life of the next time compartment. To cater for such situations and ensure that the Commission has the resources available on advantageous terms to make disbursements taking place close to the transition between time compartments, the Commission should have the possibility to attribute long-term funding instruments to the following time compartment.
- (16) The ability to manage liquidity of the funding operations by accessing short-term borrowing and holding cash for prudential purposes is a central and defining feature of the diversified funding strategy. This liquidity management will enable the Commission to meet all payment needs and adapt issuance to market conditions. This capacity gives rise to costs raising proceeds through issuance of short-term paper, and holding some proceeds on a temporary basis on a liquidity account in order to guarantee the ability to make all payments on demand. Debt management operations under the diversified funding strategy enable better management of interest rate and other financial risk. They may include the use of derivatives such as swaps to manage interest rate or other financial risks in relation to loans for the beneficiaries, or enter into secured or unsecured money market transactions. Costs incurred in relation to buy backs and/or holding of own bonds for the purposes of liquidity management should be considered as liquidity management costs. This Decision should establish a basis for calculating these liquidity costs and charging them on a fair and equitable basis to all relevant beneficiaries of proceeds over the course of the year in question.
- (17) Higher disbursement needs than the amount of long-term funding instruments allocated to the respective time compartment or interest payments, may result in a liquidity deficit of a time compartment. Lower disbursement needs than the amount of long-term funding instruments allocated to the respective time compartment or redemption payments received in relation to the outstanding disbursements allocated to the compartment may result in a liquidity surplus. Compensating these liquidity surpluses or deficits are unavoidable requirements of the implementation of the diversified funding strategy. These costs should not be borne by the respective time-compartments, but should be isolated and managed as part of a distinct liquidity management overhead. This Decision should establish a mechanism to disentangle costs arising from liquidity deficits or surpluses so that they can be absorbed by the wider funding programme in the form of liquidity management costs. The Commission should use the liquidity management compartment to level any positive or negative cash balances in the time compartments to the total amount of disbursements.
- (18) Implementing the diversified funding strategy requires the acquisition of new capacities needed to obtain the most advantageous access to capital markets and ensure the maintenance of such infrastructure in a continuous and effective manner. This includes the costs needed to maintain liquidity accounts, to acquire capacity to run auctions for EU-bills and bonds and to implement new internal data-processing capacities. Such costs that result directly from the implementation of borrowing and disbursement operations should be treated as overheads that distinguish costs related to the set-up and to the maintenance of borrowing and payment infrastructure. These costs should be captured by the cost of service for administrative overheads.

- (19) The cost of service for administrative overheads combines all administrative costs incurred directly in the implementation of the diversified funding strategy. These costs are to occur either as set-up costs, relating to one-off costs of building operational capacities or as recurring costs, which are unavoidable costs directly attributable to borrowing and debt management operations under the diversified funding strategy and which occur over time. While the recurring costs are regular annual costs charged to the disbursements that take place in a given year, the set-up costs should be imputed as one-off charges.
- (20) Costs related to the set-up and capacity building of these operations have been incurred since 2021 and have already been attributed to beneficiaries of NGEU financial support programmes, through a specific set-up cost overhead. Therefore, the beneficiaries of other programmes of financial assistance within the scope of Article 220a of the Financial Regulation, should not bear costs related to this previous capacity building but only future expenditure related to the maintenance of this infrastructure. The share of administrative costs of programmes of financial assistance within the scope of Article 220a of the Financial Regulation, other than NGEU, should therefore be restricted to recurring costs, and be treated as any beneficiary of the diversified funding strategy.
- (21) Administrative costs included in the cost of service for administrative overheads should be confined to a closed list of eligible costs, which are directly related to the diversified funding strategy. Contractual fees for recruitment of external consultant staff are added to the list of eligible administrative expenditure following agreements reached in the context of the Annual Budget for 2023. The extension of the list of eligible administrative expenditures has been communicated to Member States authorities prior to the adoption of this Decision. Aggregate cost of service for administrative overheads represents a very limited share of aggregate costs from diversified funding strategy operations.
- (22) The *ex post* invoicing process is designed to ensure that costs are recovered in the following year and until the moment costs are no longer generated by borrowing, debt and payment management operations under the diversified funding strategy.
- (23) Exceptionally for the financial assistance loans to Ukraine granted under Regulation (EU) 2022/2463, the Union might bear the cost of interests and administrative costs related to the borrowing and lending in accordance with Article 17 of Regulation (EU) 2022/2463. The necessary resources would be provided by contributions from the Member States in accordance with Article 5(1) of Regulation (EU) 2022/2463. The invoicing of those costs should therefore be aligned with the invoicing of costs in respect to disbursements as external assigned revenue under Article 3(1) of Regulation 2020/2094 and be grouped per quarter of the year.
- (24) The Commission should issue a confirmation notice concerning each disbursement, including non-repayable support within the meaning of Article 2(2)(a) and (c) of Regulation 2020/2094, repayable support to Members States within the meaning of Article 2(2)(b) of Regulation 2020/2094, and loans to a Member State or third country under programmes of financial assistance within the scope of Article 220a of the Financial Regulation.
- (25) Loans under the diversified funding strategy are to be implemented on standard financial terms (maturity and repayment profile) for each disbursement. For non-repayable support, the confirmation notice should be the main supporting element determining these financial terms for the EU Budget. The confirmation notice is to

determine the claim for cost based on its financial terms. These terms should include the date of disbursement, the amount of financial support, the date of cost of funding payments and the maturity date. The confirmation notice constitutes the essential basis underpinning the EU's budgetary planning, financial circuits and accounting for non-repayable support.

- (26) Appropriate references in the loan agreements will clarify that the costs of disbursements are determined by the application of the methodology set forth by this Decision.
- (27) This Decision should apply to all borrowing transactions and disbursements under the NGEU programme, including those that have occurred prior to its entry into force.

HAS ADOPTED THIS DECISION:

Chapter 1

Subject matter, definitions and general rules

Article 1

Subject matter, scope and governing principle

1. This Decision establishes a single and unified methodology to allocate costs incurred as a result of borrowing and debt management operations conducted under programmes of financial assistance within the scope of Article 220a of the Financial Regulation and non-repayable support under Article 5(1) of Decision (EU, Euratom) 2020/2053 ('CAM programmes').
2. The implementation of the cost allocation methodology shall be guided by the principles of fairness and equal treatment, ensuring costs are spread based on the relative share of support received.

Article 2

Definitions

For the purposes of this Decision, the following definitions apply:

- (1) "beneficiary" means a Member State or a third country that is a party to a loan agreement under a CAM programme, or the Union budget for non-repayable support under Article 5(1) of Decision (EU, Euratom) 2020/2053;
- (2) "disbursement" means the transfer of proceeds obtained through borrowing and debt management operations to finance repayable or non-repayable support to a beneficiary;
- (3) "funding instruments" means bonds, notes, commercial paper, EU-bills or any other appropriate short and/or long-term financial transactions under the diversified funding strategy;
- (4) "interest period" means a period of twelve (12) months, or such other period which may be specified in the confirmation notice, commencing on the date of disbursement or the precedent interest payment date;
- (5) "liquidity management" means management of cash flows related to funding instruments and disbursements;
- (6) "loan agreement" means an agreement between the Commission and a beneficiary under a CAM programme;
- (7) "borrowing operations" means operations referred to in Article 2(1) of the Commission Implementing Decision [C(2022)9700]⁶;

⁶ COMMISSION IMPLEMENTING DECISION (EU) .../... establishing the arrangements for the administration and implementation of the EU borrowing and debt management operations under the

- (8) “debt management operations” means operations referred to in Article 2(2) of the Commission Implementing Decision [C(2022)9700];
- (9) “short-term funding” means funding referred to in Article 2(11) of the Commission Implementing Decision [C(2022)9700];
- (10) “long-term funding” means funding referred to in Article 2(10) of the Commission Implementing Decision [C(2022)9700].

Article 3

Types of costs

The following categories of costs shall be established:

- (a) cost of funding;
- (b) cost of liquidity management;
- (c) cost of service for administrative overheads.

Chapter 1

Cost of funding and costs of liquidity management

SECTION 1

COMPARTMENTS

Article 4

Time compartments

1. A time compartment shall be active during a period of six months starting on 1 January or on 1 July. However, the first time compartment shall cover the period from 1 June 2021 until 31 December 2021.
2. The time compartment shall be constituted by the disbursements made during its active period and the related funding instruments allocated to it. Any disbursement shall be attributed to the time compartment active on the date of that disbursement.

By derogation from the first subparagraph, in case the amount of proceeds of long-term funding instruments attributed to the previous time compartment exceed the amount of disbursements attributed to that compartment in accordance with the first subparagraph, the disbursements shall continue to be allocated to that time

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compartment until the amount of disbursements reaches the amount of the proceeds of that long term funding instruments.

The disbursement shall remain attributed to the time compartment in respect to any outstanding amount which is yet to be repaid.

3. Without prejudice to Article 6(2), long-term funding instruments' proceeds shall be attributed to a time compartment.
4. Long-term funding instruments other than those referred to in paragraph 5 shall be attributed to the time compartment active at the moment of the conclusion of the borrowing operation generating them.

By derogation from the first subparagraph,

- (a) funding instruments raised with a view of funding a disbursement in the following time compartment may be attributed to that time compartment;
 - (b) in case the amount of disbursements at the end of the active time compartment exceeds the amount of proceeds of long-term funding instruments, the long-term funding instruments generated from the borrowing operations after the end of the active period of the time compartment shall be attributed to that time compartment until the amount of proceeds of long-term funding instruments reaches the amount of disbursements of that time compartment.
5. Long-term funding instruments replacing maturing long-term funding instruments shall be attributed to the same time compartment. Article 6 shall apply in case of a mismatch between maturity date of the maturing long-term instrument and the date of borrowing of the long-term instrument replacing it.

Article 5

Liquidity management compartment

1. The liquidity management compartment shall operate until the borrowing operations authorised in CAM programmes are fully repaid.
2. Short-term funding instruments, debt management operations and the costs arising from them shall be attributed to the liquidity management compartment.

Article 6

Levelling of liquidity balances

1. The level of liquidity holdings in a time compartment shall be calculated on a daily basis as the difference between inflows and outflows, as set out in step 3 of point 1 of the Annex.
2. Any positive amount referred to in paragraph 1 ('liquidity surplus') shall be on a daily basis allocated from the time compartment to the liquidity management compartment, as set out in step 4 of point 1 of the Annex at the cost of funding of the relevant time compartment on that day.

3. Any amount corresponding to the negative amount referred to in paragraph 1 ('liquidity deficit') shall be on a daily basis attributed from the liquidity management compartment to the time compartment, as set out in step 6 of point 1 of the Annex, at the cost of funding of the liquidity management compartment on that day.

SECTION 2

CALCULATION OF COSTS OF FUNDING AND OF COSTS OF LIQUIDITY MANAGEMENT

Article 7

Calculation of cost of funding of a time compartment

1. Costs of funding shall be calculated on a daily basis.
2. Cost of funding of a funding instrument shall comprise the daily interest in relation to each funding instrument and a potential agio/disagio based on the all-in issuance price.
3. The daily cost of funding of the time compartment shall comprise the daily cost of funding of the funding instruments attributed to the time compartment after the results of the application of Article 6(2) and (3).

Article 8

Calculation of cost of liquidity management

1. The cost of liquidity management shall be the sum of cost of carry in the liquidity management compartment, as set out in point 2 of the Annex.
2. The cost of carry shall be the difference between the interest accrued under the relevant funding instruments of the liquidity management compartment, the costs and returns resulting from the levelling of any liquidity surpluses or liquidity deficits referred to in Article 6(2) and (3), and the return on investment generated by the holdings.
3. The costs of liquidity management shall be calculated on a daily basis.

Article 9

Allocation of costs of liquidity management

1. The costs of liquidity management shall be calculated as the sum of the daily costs of liquidity management over a quarter. These costs shall be attributed to each disbursement on a pro rata basis of the relative share of the disbursement to total outstanding amounts of disbursements at the end of the quarter.

2. The cost of liquidity management shall be calculated based on the methodology and the steps set out in point 2 of the Annex.

Article 10

Attribution of cost of funding to a disbursement

1. The disbursements of the same time compartment shall bear the same average daily cost of funding until their repayment.
2. For each outstanding disbursement, the daily cost of funding shall be calculated by multiplying the total cost of funding of the compartment after application of Article 6(2) and (3) with the disbursement amount divided by the total outstanding amounts of disbursements of the time compartment to which the disbursement is attributed.

Chapter 3

Cost of service for administrative overheads

Article 11

Cost of service for administrative overheads

The cost of service for administrative overheads shall comprise recurring administrative costs for beneficiaries and set-up costs for RRF loans. They shall be calculated in accordance with point 3 of the Annex.

Article 12

Recurring administrative costs

1. Recurring administrative costs shall comprise any costs incurred by the Commission in the execution of the borrowing and debt management operations, comprised of the following types: legal fees such as those incurred for legal opinions, account management recurring costs, costs for external audit, auction platform maintenance fees, rating agency fees, listing, taxes, registration, publication and settlement fees, information-technology, market related research expenses, and contractual agent fees related to the implementation of the diversified funding strategy.
2. To the extent that such costs are common to borrowing operations implemented for other financial assistance programmes, the costs included in the calculation shall be calculated based on the pro rata share attributed to borrowing and debt management operations in the relevant calendar year.
3. Recurring administrative costs shall be calculated for each disbursement received under each loan agreement on a pro rata basis of the disbursement to the total amounts of disbursements at the end of the calendar year.

Article 13

Set-up costs for RRF loans

1. Set-up costs for RRF loans shall comprise any costs incurred by the Commission in building the capacity for conducting NGEU borrowing, debt management and payment management operations. They include costs related to the establishment of NGEU accounts, the establishment of an auction platform, an investor management tool, other information-technology costs and market related research and consulting fees.
2. Member States who sign RRF loan agreements shall bear 48% of the total set up costs.
3. In 2021, 2022 and 2023, the Member States shall pay the set-up costs referred to in paragraph 1 on a pro rata basis of the amount of loan under the signed RRF loan agreement to the total amount of loans under all signed RRF loan agreements, as set out in point 3(2)(a) and 3(2)(b) of the Annex.
4. By 30 June 2024, any unallocated set-up costs to Member States who have signed RRF loan agreements shall be allocated on a pro rata basis to the amount of loans signed under each RRF loan agreement to the total amounts of loans under all signed RRF loan agreements until 31 December 2023, as set out in point 3(2)(c) of the Annex.
5. No additional set-up costs for borrowing operations shall be due after the end of the year 2023 or allocated to CAM programmes, unless they fall within the scope of Article 5(1) of Decision (EU, Euratom) 2020/2053.

Chapter 4

Invoicing

Article 14

Confirmation notice

1. In relation to each disbursement, a confirmation notice shall be established which contains the terms giving rise to the cost claim from the Commission.
2. The confirmation notice shall determine terms for cost of funding payment and principal repayment to be repaid from the Union's budget under Article 5(1) first subparagraph of Decision 2020/2053 for non-repayable support and by the beneficiaries of loan agreements.
3. The confirmation notice shall contain the following elements:
 - (a) the amount of the disbursement,
 - (b) the maturity,
 - (c) the repayment schedule,

- (d) the attribution of the disbursement to a time compartment,
 - (e) interest period indicating the payment date.
4. The confirmation notice for loans shall also contain additional elements indicated in the loan agreements.

Article 15

Invoicing of costs of funding

1. The cost of funding shall be calculated in relation to each disbursement at the end of the interest period determined in the confirmation notice.
2. The invoicing shall take place at the end of the interest period determined in the confirmation notice. In relation to disbursements as external assigned revenue under Article 3(1) of Regulation 2020/2094 and to disbursements under the MFA+ instrument, in case Ukraine requests subsidisation of related costs, the invoices may be grouped per quarter of the year.

Article 16

Invoicing of cost of liquidity management

The cost of liquidity management shall be invoiced at the beginning of each calendar year for cost incurred during the previous calendar year.

Article 17

Invoicing of cost of service for administrative overheads

Beneficiaries of loans shall be invoiced at the beginning of each calendar year for cost of service for administrative overheads incurred during the previous calendar year, with respect to aggregate costs allocated under article 11.

Payments by beneficiaries for the costs of service shall constitute internal assigned revenue within the meaning of Article 21(3)(a) of the Financial Regulation.

Article 18

Repeal

Decision (EU) 2021/1095 is repealed.

References to the repealed decision shall be construed as references to this Decision.

Article 19

Entry into force

The decision enters into force the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 19.12.2022

*For the Commission
The President
Ursula VON DER LEYEN*