

## I

*(Legislative acts)*

## DECISIONS

**COUNCIL DECISION (EU, Euratom) 2020/2053****of 14 December 2020****on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 311 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a 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 <sup>(1)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The system of own resources of the Union must ensure adequate resources for the orderly development of the policies of the Union, subject to the need for strict budgetary discipline. The development of the system of own resources can and should also contribute, to the greatest extent possible, to the development of the policies of the Union.
- (2) The Lisbon Treaty introduced changes to the provisions related to the system of own resources of the Union which enable the abolition of an existing category of own resources and the establishment of a new category.
- (3) The European Council of 7 and 8 February 2013 called upon the Council to continue working on the proposal of the Commission for a new own resource based on value added tax (VAT) to make it as simple and transparent as possible, to strengthen the link with Union VAT policy and the actual VAT receipts, and to ensure equal treatment of taxpayers in all Member States.
- (4) In June 2017 the Commission adopted a reflection paper on the future of EU finances. In it, the Commission proposed a range of options linking own resources more visibly to Union policies, in particular to the single market and to sustainable growth. According to the paper, in introducing new own resources, attention should be paid to their transparency, simplicity and stability, their consistency with Union policy objectives, their impact on competitiveness and sustainable growth, and their equitable breakdown among Member States.
- (5) The present system for determining the VAT-based own resource has been criticised repeatedly by the Court of Auditors, the European Parliament and Member States as overly complex. The European Council of 17 to 21 July 2020 has therefore concluded that it is appropriate to simplify the calculation of that own resource.
- (6) In order to better align the Union's financing instruments with its policy priorities, to better reflect the role of the general budget of the Union ('the Union budget') in the functioning of the single market, to better support the objectives of Union policies and to reduce Member States' contributions based on gross national income (GNI) to the Union's annual budget, the European Council of 17 to 21 July 2020 concluded that over the coming years the Union would work towards reforming the system of own resources and introduce new own resources.

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<sup>(1)</sup> Opinion of 16 September 2020 (not yet published in the Official Journal).

- (7) As a first step, a new category of own resources based on national contributions calculated on the basis of non-recycled plastic packaging waste should be introduced. In accordance with the European strategy for plastics, the Union budget can contribute to reduce pollution from plastic packaging waste. An own resource which is based on national contributions that are proportional to the quantity of plastic packaging waste that is not recycled in each Member State will provide an incentive to reduce the consumption of single-use plastics, foster recycling and boost the circular economy. At the same time, Member States will be free to take the most suitable measures to achieve those goals, in line with the principle of subsidiarity. In order to avoid an excessively regressive impact on national contributions, an adjustment mechanism with an annual lump sum reduction should be applied to contributions of Member States with a GNI per capita in 2017 below the EU average. The reduction should correspond to 3,8 kilograms multiplied by the population in 2017 of the Member States concerned.
- (8) The European Council of 17 to 21 July 2020 noted that, as a basis for additional own resources, the Commission will put forward in the first semester of 2021 proposals on a carbon border adjustment mechanism and on a digital levy with a view to their introduction at the latest by 1 January 2023. The European Council invited the Commission to put forward a revised proposal on the EU Emissions Trading System, possibly extending it to the aviation and maritime sectors. It concluded that the Union will, in the course of the multiannual financial framework for the period 2021-2027 ('MFF 2021-2027'), work towards the introduction of other own resources, which may include a Financial Transaction Tax.
- (9) The European Council of 17 to 21 July 2020 concluded that the own resources arrangements should be guided by the overall objectives of simplicity, transparency and equity, including fair burden-sharing. It also concluded that Denmark, the Netherlands, Austria and Sweden, and, in the context of the support for the recovery and resilience, as well as Germany, are to benefit from lump sum corrections to their annual GNI-based contributions for the period 2021-2027.
- (10) Member States should retain, by way of collection costs, 25 % of the amounts of traditional own resources collected by them.
- (11) The integration of the European Development Fund into the Union budget should be accompanied by an increase in the own resources ceilings established in this Decision. A sufficient margin between the payments and the own resources ceiling is necessary to ensure that the Union is able – under any circumstances – to fulfil its financial obligations, even in times of economic downturn.
- (12) A sufficient margin should be preserved under the own resources ceilings for the Union to cover all of its financial obligations and contingent liabilities falling due in any given year. The total amount of own resources allocated to the Union to cover annual appropriations for payments should not exceed 1,40 % of the sum of all the Member States' GNIs. The total annual amount of appropriations for commitments entered in the Union budget should not exceed 1,46 % of the sum of all the Member States' GNIs.
- (13) In order to keep the amount of financial resources put at the disposal of the Union unchanged, it is appropriate to adjust the own resources ceiling for appropriations for payments and for appropriations for commitments expressed as a percentage of GNI, in the event of amendments to Regulation (EU) No 549/2013 of the European Parliament and of the Council<sup>(?)</sup> which result in significant changes in the level of GNI.
- (14) The economic impact of the COVID-19 crisis underlines the importance of ensuring that the Union has sufficient financial capacity in the event of economic shocks. The Union needs to provide itself with the means to attain its objectives. Financial resources on an exceptional scale are required in order to address the consequences of the COVID-19 crisis without increasing the pressure on the finances of the Member States at a moment where their budgets are already under enormous pressure to finance national economic and social measures in relation to the crisis. An exceptional response should therefore take place at Union level. For that reason, it is appropriate to empower the Commission on an exceptional basis to borrow temporarily up to EUR 750 000 million in 2018 prices on capital markets on behalf of the Union. Up to EUR 360 000 million in 2018 prices of the funds borrowed would be used for providing loans and up to EUR 390 000 million in 2018 prices of the funds borrowed would be used for expenditure, both for the sole purpose of addressing the consequences of the COVID-19 crisis.
- (15) This exceptional response should address the consequences of the COVID-19 crisis and avoid its re-emergence. Therefore, support should be limited in time and the majority of the funding should be provided in the immediate aftermath of the crisis, meaning that legal commitments of a programme financed by these additional resources should be made by 31 December 2023. The approval of payments under the Recovery and Resilience Facility will be subject to the satisfactory fulfilment of the relevant milestones and targets set out in the Recovery and Resilience Plan, which will be assessed in accordance with the relevant procedure set out in the Regulation establishing a Recovery and Resilience Facility, which reflects the conclusions of the European Council of 17 to 21 July 2020.

(?) Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

- (16) To bear the liability related to the envisaged borrowing of funds, an extraordinary and temporary increase in the own resources ceilings is necessary. Therefore, for the sole purpose of covering all liabilities of the Union resulting from its borrowing to address the consequences of the COVID-19 crisis, the ceiling for appropriations for payments and the ceiling for appropriations for commitments should each be increased by 0,6 percentage points. The empowerment of the Commission to borrow funds on capital markets on behalf of the Union for the sole and exclusive purpose of financing measures to address the consequences of the COVID-19 crisis is closely related to the increase in the own resources ceilings foreseen in this Decision and, ultimately, to the functioning of the system of own resources of the Union. Accordingly, that empowerment should be included in this Decision. The unprecedented nature of this operation and the exceptional amount of the funds to be borrowed call for certainty about the overall volume of the Union's liability and the essential features of its repayment, as well as for the implementation of a diversified borrowing strategy.
- (17) The increase in the own resources ceilings is necessary since the ceilings would otherwise not be sufficient to ensure the availability of adequate resources that the Union needs to meet the liabilities resulting from the exceptional and temporary empowerment to borrow funds. The need to have recourse to this additional allocation will also only be temporary since the relevant financial obligations and contingent liabilities will decrease over time as the borrowed funds are repaid and the loans mature. Therefore, the increase should expire when all funds borrowed have been repaid and all contingent liabilities relating to loans provided on the basis of those funds have ceased, which should be by 31 December 2058 at the latest.
- (18) Activities of the Union to address the consequences of the COVID-19 crisis need to be significant and must take place over a relatively short period. The borrowing of funds needs to follow this timing. Therefore, new net borrowing activity should stop at the latest at the end of 2026. After 2026 borrowing operations should be strictly limited to refinancing operations to ensure an efficient debt management. The Commission, when implementing the operations through a diversified funding strategy, should make the best use of the capacity of the markets to absorb the borrowing of such significant amounts of funds with different maturities, including short-term financing for the purpose of cash management, and ensuring the most advantageous repayment conditions. In addition, the Commission should regularly and comprehensively inform the European Parliament and the Council about all aspects of its debt management. Once the payment schedules for the policies to be funded by the borrowing are known, the Commission will communicate an issuance calendar containing the expected issuance dates and expected volumes for the forthcoming year as well as a plan setting out the expected principal and interest payments to the European Parliament and the Council. The Commission should update that calendar regularly.
- (19) The repayment of funds borrowed for the purpose of providing non-repayable support, providing repayable support through financial instruments or provisioning for budgetary guarantees, as well as payment of the interest due, should be funded by the Union budget. The borrowed funds which are used to provide loans to Member States should be repaid using the sums received from the beneficiary Member States. The necessary resources need to be allocated and made available to the Union for it to be able to cover all of its financial obligations and contingent liabilities resulting from the exceptional and temporary empowerment to borrow funds in any given year and under any circumstances, in compliance with Article 310(4) and Article 323 of the Treaty on the Functioning of the European Union (TFEU).
- (20) Amounts not used for interest payments as foreseen will be used for early repayments before the end of the MFF 2021-2027, with a minimum amount, and can be increased above this level provided that new own resources have been introduced after 2021 in accordance with the procedure set out in the third paragraph of Article 311 TFEU. All liabilities incurred by the exceptional and temporary empowerment to borrow funds should be fully repaid by 31 December 2058. In order to ensure the efficient budgetary management of the appropriations needed to cover repayments for the funds borrowed, it is appropriate to provide for the possibility of underlying budgetary commitments being broken down in annual instalments.
- (21) The schedule of repayments should respect the principle of sound financial management and cover the entire volume of funds borrowed under the empowerment of the Commission with a view to achieving a steady and predictable reduction of liabilities during the overall period. For that purpose, the amounts due by the Union in a given year for the repayment of the principal should not exceed 7,5 % of the maximum amount of EUR 390 000 million for expenditure.
- (22) Given the features of the exceptional, temporary and limited empowerment of the Commission to borrow funds for the purpose of addressing the consequences of the COVID-19 crisis, it should be clarified that, as a rule, the Union should not use funds borrowed on capital markets for the financing of operational expenditure.
- (23) In order to ensure that the Union is always able to fulfil its legal obligations in respect of third parties in a timely manner, specific rules should be provided by this Decision authorising the Commission, during the period of the temporary increase in the own resources ceilings, to call on Member States to provisionally make available the relevant cash resources if the authorised appropriations entered in the Union budget are not sufficient to cover

liabilities arising from the borrowing linked to that temporary increase. The Commission should, as its last resort, only be able to call cash resources if it cannot generate the necessary liquidity by activating other measures of active cash management, including, if necessary, through a recourse to short-term financing on capital markets, in order to ensure timely compliance with the Union's obligations towards lenders. It is appropriate to provide that such calls should be announced by the Commission to Member States duly in advance and should be strictly *pro rata* to the estimated budget revenue of each Member State, and in any case, limited to their share of the temporarily increased own resources ceiling, that is 0,6 % of Member States' GNI. However, if a Member State fails, in full or in part, to honour a call on time, or if it notifies the Commission that it will not be able to honour a call, the Commission should nevertheless be authorised on a provisional basis to make additional calls on other Member States on a *pro rata* basis. It is appropriate to provide a maximum amount that the Commission may annually call from a Member State. The Commission is expected to submit the necessary proposals for the purpose of entering the expenditure covered by the amounts of cash resources provisionally provided by the Member States in the Union budget in order to ensure that those resources are taken into account as early as possible for the purpose of crediting own resources to accounts by the Member States, i.e. in accordance with the applicable legal framework and thus on the basis of the respective GNI keys and without prejudice to other own resources and other revenues.

- (24) Under the fourth paragraph of Article 311 TFEU, a Council regulation laying down implementing measures for the system of own resources of the Union will be adopted. Those measures should include provisions of a general and technical nature that are applicable to all categories of own resources. Those measures should include detailed rules for the calculation and budgeting of the balance, as well as the provisions and arrangements necessary for controlling and supervising the collection of own resources.
- (25) This Decision should enter into force only once it has been approved by all Member States in accordance with their respective constitutional requirements thus fully respecting national sovereignty. The European Council of 17 to 21 July 2020 noted the intention of Member States to proceed with the approval of this Decision as soon as possible.
- (26) For reasons of consistency, continuity and legal certainty, it is necessary to lay down provisions to ensure a smooth transition from the system introduced by Council Decision 2014/335 EU, Euratom <sup>(3)</sup> to that provided for in this Decision.
- (27) Decision 2014/335/EU, Euratom should be repealed.
- (28) For the purposes of this Decision, all monetary amounts should be expressed in euro.
- (29) Due to the need to urgently enable borrowing with a view to financing measures to address the consequences of the COVID-19 crisis, this Decision should enter into force on the first day of the first month following receipt of the last of the notifications of the completion of the procedures for the adoption of this Decision.
- (30) In order to ensure the transition to the revised system of own resources and to make this Decision coincide with the financial year, this Decision should apply from 1 January 2021,

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### **Subject matter**

This Decision lays down rules on the allocation of own resources to the Union in order to ensure the financing of the Union's annual budget.

#### *Article 2*

##### **Categories of own resources and specific methods for their calculation**

1. Revenue from the following shall constitute own resources entered in the Union budget:
  - (a) traditional own resources consisting of levies, premiums, additional or compensatory amounts, additional amounts or factors, Common Customs Tariff duties and other duties established or to be established by the institutions of the Union in respect of trade with third countries, customs duties on products under the expired Treaty establishing the European Coal and Steel Community, as well as contributions and other duties provided for within the framework of the common organisation of the markets in sugar;

<sup>(3)</sup> Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

- (b) the application of a uniform call rate of 0,30 % for all Member States to the total amount of VAT receipts collected in respect of all taxable supplies divided by the weighted average VAT rate calculated for the relevant calendar year as stipulated in Council Regulation (EEC, Euratom) No 1553/89 <sup>(4)</sup>. For each Member State the VAT base to be taken into account for this purpose shall not exceed 50 % of GNI;
- (c) the application of a uniform call rate to the weight of plastic packaging waste generated in each Member State that is not recycled. The uniform call rate shall be EUR 0,80 per kilogram. An annual lump sum reduction for certain Member States as defined in the third subparagraph of paragraph 2 shall apply;
- (d) the application of a uniform call rate, to be determined pursuant to the budgetary procedure in the light of the total of all other revenue, to the sum of GNI of all the Member States.

2. For the purposes of point (c) of paragraph 1 of this Article, 'plastic' shall mean a polymer within the meaning of point (5) of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(5)</sup>, to which additives or other substances may have been added; 'packaging waste' and 'recycling' shall have the meaning assigned to those terms in points (2) and (2c) of Article 3 of European Parliament and Council Directive 94/62/EC <sup>(6)</sup> respectively, and as used in Commission Decision 2005/270/EC <sup>(7)</sup>.

The weight of plastic packaging waste that is not recycled shall be calculated as the difference between the weight of the plastic packaging waste generated in a Member State in a given year and the weight of the plastic packaging waste recycled in that year that is determined pursuant to Directive 94/62/EC.

The following Member States shall be entitled to annual lump sum reductions, expressed in current prices, to be applied to their respective contributions under point (c) of paragraph 1 in the amount of EUR 22 million for Bulgaria, EUR 32,1876 million for Czechia, EUR 4 million for Estonia, EUR 33 million for Greece, EUR 142 million for Spain, EUR 13 million for Croatia, EUR 184,0480 million for Italy, EUR 3 million for Cyprus, EUR 6 million for Latvia, EUR 9 million for Lithuania, EUR 30 million for Hungary, EUR 1,4159 million for Malta, EUR 117 million for Poland, EUR 31,3220 million for Portugal, EUR 60 million for Romania, EUR 6,2797 million for Slovenia and EUR 17 million for Slovakia.

3. For the purposes of point (d) of paragraph 1, the uniform call rate shall apply to the GNI of each Member State.

GNI as referred to in point (d) of paragraph 1 means annual GNI at market prices, as provided by the Commission in application of Regulation (EU) No 549/2013.

4. For the period 2021-2027, the following Member States shall benefit from a gross reduction in their annual GNI-based contributions under point (d) of paragraph 1 in the amount of EUR 565 million for Austria, EUR 377 million for Denmark, EUR 3 671 million for Germany, EUR 1 921 million for the Netherlands and EUR 1 069 million for Sweden. Those amounts shall be measured in 2020 prices and adjusted to current prices by applying the most recent gross domestic product deflator for the Union expressed in euro, as provided by the Commission, which is available when the draft budget is drawn up. Those gross reductions shall be financed by all Member States.

5. If, at the beginning of the financial year, the Union budget has not been adopted, the previous uniform call rates based on GNI shall continue to apply until the entry into force of the new rates.

### Article 3

#### Own resources ceilings

1. The total amount of own resources allocated to the Union to cover annual appropriations for payments shall not exceed 1,40 % of the sum of all the Member States' GNIs.

2. The total annual amount of appropriations for commitments entered in the Union budget shall not exceed 1,46 % of the sum of all the Member States' GNIs.

<sup>(4)</sup> Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

<sup>(5)</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

<sup>(6)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>(7)</sup> Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

3. An orderly ratio between appropriations for commitments and appropriations for payments shall be maintained to guarantee their compatibility and to enable the ceiling set in paragraph 1 to be complied with in subsequent years.
4. Where amendments to Regulation (EU) No 549/2013 result in significant changes in the level of GNI, the Commission shall recalculate the ceilings set out in paragraphs 1 and 2 as temporarily increased in accordance with Article 6 on the basis of the following formula:

$$x \% (y \%) \times \frac{GNI_{t-2} + GNI_{t-1} + GNI_t \text{ ESA current}}{GNI_{t-2} + GNI_{t-1} + GNI_t \text{ ESA modified}}$$

where:

- 'x %' is the own resources ceiling for appropriations for payments;
- 'y %' is the own resources ceiling for appropriations for commitments;
- 't' is the latest full year for which the data defined by Regulation (EU) 2019/516 <sup>(8)</sup> is available,
- 'ESA' is the European system of national and regional accounts in the Union.

#### Article 4

##### Use of funds borrowed on capital markets

The Union shall not use funds borrowed on capital markets for the financing of operational expenditure.

#### Article 5

##### Extraordinary and temporary additional means to address the consequences of the COVID-19 crisis

1. For the sole purpose of addressing the consequences of the COVID-19 crisis through the Council Regulation establishing a European Union Recovery Instrument and the sectoral legislation referred to therein:
- (a) the Commission shall be empowered to borrow funds on capital markets on behalf of the Union up to EUR 750 000 million in 2018 prices. The borrowing operations shall be carried out in euro;
  - (b) up to EUR 360 000 million in 2018 prices of the funds borrowed may be used for providing loans and, by way of derogation from Article 4, up to EUR 390 000 million in 2018 prices of the funds borrowed may be used for expenditure.

The amount referred to in point (a) of the first subparagraph shall be adjusted on the basis of a fixed deflator of 2 % per year. Each year the Commission shall communicate to the European Parliament and the Council the amount as adjusted.

The Commission shall manage the borrowing referred to in point (a) of the first subparagraph so that no new net borrowing takes place after 2026.

2. The repayment of the principal of the funds borrowed to be used for expenditure as referred to in point (b) of the first subparagraph of paragraph 1 of this Article and the related interest due shall be borne by the Union budget. The budgetary commitments may be broken down over several years into annual instalments in accordance with Article 112(2) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(9)</sup>.

The repayment of the funds referred to in point (a) of the first subparagraph of paragraph 1 of this Article shall be scheduled, in accordance with the principle of sound financial management, so as to ensure the steady and predictable reduction of liabilities. Repayments of the principal of the funds shall start before the end of the MFF 2021-2027 period, with a minimum amount, insofar as amounts not used for interest payments due under the borrowing referred to in paragraph 1 of this Article allow it, with due regard to the procedure set out in Article 314 TFEU. All liabilities incurred by the exceptional and temporary empowerment of the Commission to borrow funds referred to in paragraph 1 of this Article shall be fully repaid at the latest by 31 December 2058.

<sup>(8)</sup> Regulation (EU) 2019/516 of the European Parliament and of the Council of 19 March 2019 on the harmonisation of gross national income at market prices and repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 (GNI Regulation) (OJ L 91, 29.3.2019, p. 19).

<sup>(9)</sup> 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 966/2012 (OJ L 193, 30.7.2018, p. 1).

The amounts due by the Union in a given year for the repayment of the principal of the funds referred to in the first subparagraph of this paragraph shall not exceed 7,5 % of the maximum amount to be used for expenditure referred to in point (b) of the first subparagraph of paragraph 1.

3. The Commission shall establish the necessary arrangements for the administration of the borrowing operations. The Commission shall regularly and comprehensively inform the European Parliament and the Council about all aspects of its debt management strategy. The Commission shall establish an issuance calendar containing the expected issuance dates and volumes for the forthcoming year as well as a plan setting out the expected principal and interest payments, and communicate it to the European Parliament and the Council. The Commission shall update that calendar regularly.

#### Article 6

### **Extraordinary and temporary increase in the own resources ceilings for the allocation of the resources necessary for addressing the consequences of the COVID-19 crisis**

The ceilings set out in Article 3(1) and (2) shall each be temporarily increased by 0,6 percentage points for the sole purpose of covering all liabilities of the Union resulting from the borrowing referred to in Article 5 until all such liabilities have ceased to exist, and at the latest by 31 December 2058.

The increase in the own resources ceilings shall not be used to cover any other liabilities of the Union.

#### Article 7

### **Universality principle**

The revenue referred to in Article 2 shall be used without distinction to finance all expenditure entered in the Union's annual budget.

#### Article 8

### **Carry-over of surplus**

Any surplus of the Union's revenue over total actual expenditure during a financial year shall be carried over to the following financial year.

#### Article 9

### **Collecting own resources and making them available to the Commission**

1. The own resources referred to in point (a) of Article 2(1) shall be collected by the Member States in accordance with the national provisions imposed by law, regulation or administrative action. Member States shall, where appropriate, adapt those provisions to meet the requirements of Union rules.

The Commission shall examine the relevant national provisions communicated to it by Member States, transmit to Member States the adjustments it deems necessary in order to ensure that they comply with Union rules and report, if necessary, to the European Parliament and the Council.

2. Member States shall retain, by way of collection costs, 25 % of the amounts referred to in point (a) of Article 2(1).

3. Member States shall make the own resources provided for in Article 2(1) of this Decision available to the Commission, in accordance with regulations adopted under Article 322(2) TFEU.

4. Without prejudice to Article 14(2) of Council Regulation (EU, Euratom) No 609/2014<sup>(10)</sup>, if the authorised appropriations entered in the Union budget are not sufficient for the Union to comply with its obligations resulting from the borrowing referred to in Article 5 of this Decision and the Commission cannot generate the necessary liquidity by activating other measures provided for by the financial arrangements applying to such borrowing in time to ensure compliance with the Union's obligations, including through active cash management and, if necessary, through a recourse to short-term financing on capital markets consistent with the conditions and limits set out in point (a) of the first

<sup>(10)</sup> Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

subparagraph of Article 5(1) and Article 5(2) of this Decision, the Member States, as the Commission's last resort, shall make the resources necessary for that purpose available to the Commission. In such cases, paragraphs 5 to 9 of this Article shall apply by way of derogation from Article 14(3) and from the first subparagraph of Article 14(4) of Regulation (EU, Euratom) No 609/2014.

5. Subject to the second subparagraph of Article 14(4) of Regulation (EU, Euratom) No 609/2014, the Commission may call on the Member States to provisionally provide the difference between the overall assets and the cash resource requirements, in proportion (*pro rata*) to the estimated budget revenue of each of them. The Commission shall announce such calls to Member States duly in advance. The Commission will establish a structured dialogue with national debt management offices and treasuries in respect of its issuance and repayment schedules.

If a Member State fails, in full or in part, to honour a call on time, or if it notifies the Commission that it will not be able to honour a call, in order to cover for the part corresponding to the Member State concerned, the Commission shall provisionally have the right to make additional calls on the other Member States. Such calls shall be *pro rata* to the estimated budget revenue of each of the other Member States. The Member State which failed to honour a call shall remain liable to honour it.

6. The maximum total annual amount of cash resources that may be called from a Member State under paragraph 5 shall in all circumstances be limited to its GNI-based relative share in the extraordinary and temporary increase in the own resources ceiling as referred to in Article 6. For this purpose, the GNI-based relative share shall be calculated as the share in the total GNI of the Union, as resulting from the respective column in the revenue part of the last adopted annual Union budget.

7. Any provision of cash resources pursuant to paragraphs 5 and 6 shall be compensated without delay in line with the applicable legal framework for the Union budget.

8. The expenditure covered by the amounts of cash resources provisionally provided by Member States in accordance with paragraph 5 shall be entered in the Union budget without delay in order to ensure that the related revenue is taken into account as early as possible for the purpose of crediting own resources to accounts by the Member States in accordance with the relevant provisions of Regulation (EU, Euratom) No 609/2014.

9. On an annual basis, the application of paragraph 5 shall not lead to calling cash resources in excess of the own resources ceilings referred to in Article 3 as increased in accordance with Article 6.

#### Article 10

##### Implementing measures

The Council shall lay down implementing measures in accordance with the procedure set out in the fourth paragraph of Article 311 TFEU as regards the following elements of the system of own resources of the Union:

- (a) the procedure for calculating and budgeting the annual budgetary balance as set out in Article 8;
- (b) the provisions and arrangements necessary for controlling and supervising the collection of the own resources referred to in Article 2(1) and any relevant reporting requirements.

#### Article 11

##### Final and transitional provisions

1. Subject to paragraph 2, Decision 2014/335/EU, Euratom is repealed. Any references to Council Decision 70/243/ECSC, EEC, Euratom <sup>(1)</sup>, to Council Decision 85/257/EEC, Euratom <sup>(2)</sup>, to Council Decision 88/376/EEC, Euratom <sup>(3)</sup>, to Council Decision 94/728/EC, Euratom <sup>(4)</sup>, to Council Decision 2000/597/EC, Euratom <sup>(5)</sup>, to Council Decision 2007/436/EC, Euratom <sup>(6)</sup> or to Decision 2014/335/EU, Euratom shall be construed as references to this Decision; references to the repealed Decision shall be read in accordance with the correlation table in the Annex to this Decision.

<sup>(1)</sup> Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (OJ L 94, 28.4.1970, p. 19).

<sup>(2)</sup> Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources (OJ L 128, 14.5.1985, p. 15).

<sup>(3)</sup> Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources (OJ L 185, 15.7.1988, p. 24).

<sup>(4)</sup> Council Decision 94/728/EC, Euratom of 31 October 1994 on the system of the European Communities' own resources (OJ L 293, 12.11.1994, p. 9).

<sup>(5)</sup> Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources (OJ L 253, 7.10.2000, p. 42).

<sup>(6)</sup> Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ L 163, 23.6.2007, p. 17).

2. Articles 2, 4 and 5 of Decision 94/728/EC, Euratom, Articles 2, 4 and 5 of Decision 2000/597/EC, Euratom, Articles 2, 4 and 5 of Decision 2007/436/EC, Euratom and Articles 2, 4 and 5 of Decision 2014/335/EU, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of the rate of call to the VAT base determined in a uniform manner and limited to between 50 % and 55 % of the GNP or GNI of each Member State, depending on the relevant year, to the calculation of the correction of budgetary imbalances granted to the United Kingdom in the years 1995 to 2020 and to the calculation of the financing of the corrections granted to the United Kingdom by other Members States.
3. Member States shall continue to retain, by way of collection costs, 10 % of the amounts referred to in point (a) of Article 2(1) which should have been made available by the Member States before 28 February 2001 in accordance with the applicable Union rules.
4. Member States shall continue to retain, by way of collection costs, 25 % of the amounts referred to in point (a) of Article 2(1) which should have been made available by the Member States between 1 March 2001 and 28 February 2014 in accordance with the applicable Union rules.
5. Member States shall continue to retain, by way of collection costs, 20 % of the amounts referred to in point (a) of Article 2(1) which should have been made available by the Member States between 1 March 2014 and 28 February 2021 in accordance with the applicable Union rules.
6. For the purposes of this Decision, all monetary amounts shall be expressed in euro.

#### *Article 12*

#### **Entry into force**

The Secretary-General of the Council shall notify the Member States of this Decision.

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the first month following receipt of the last of the notifications referred to in the second paragraph.

It shall apply from 1 January 2021.

#### *Article 13*

#### **Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 14 December 2020.

*For the Council*  
*The President*  
M. ROTH

## ANNEX

## CORRELATION TABLE

Decision 2014/335/EU, Euratom	This Decision
Article 1	Article 1
Article 2(1)(a)	Article 2(1)(a)
Article 2(1)(b)	Article 2(1)(b)
-	Article 2(1)(c)
Article 2(1)(c)	Article 2(1)(d)
Article 2(2)	-
-	Article 2(2)
Article 2(3)	Article 9(2)
Article 2(4)	Article 2(1)(b)
Article 2(5)	Article 2(3), first subparagraph and Article 2(4)
Article 2(6)	Article 2(5)
Article 2(7)	Article 2(3), second subparagraph and Article 3(4)
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2) and (3)
Article 3(3)	-
Article 3(4)	Article 3(4)
Article 4	-
-	Article 4
Article 5	-
-	Article 5
-	Article 6
Article 6	Article 7
Article 7	Article 8
Article 8(1)	Article 9(1)
Article 8(2)	Article 9(3)
-	Article 9(4) to (9)
Article 9	Article 10
Article 10(1)	Article 11(1)
Article 10(2)	Article 11(2)
Article 10(3)	Article 11(3)
Article 10(3), second subparagraph	Article 11(4)
-	Article 11(5)
Article 10(4)	Article 11(6)
Article 11	Article 12
Article 12	-
-	Article 13