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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 12.8.2021 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing the Union renewable development platform

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Delegations will find attached document C(2021) 5752 final.

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Encl.: C(2021) 5752 final



Brussels, 12.8.2021  
C(2021) 5752 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.8.2021**

**supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council  
by establishing the Union renewable development platform**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Statistical transfers are one of the cooperation mechanisms established in the Renewables Directive 2009/28/EC and the recast Renewables Directive (EU) 2018/2001. Statistical transfers are, in effect, agreements to transfer a specified amount of energy from renewable sources from one Member State to another Member State via statistics (a physical transfer is not necessary). The agreed amount of energy from renewable sources needs to be deducted from the renewable energy share in the ‘selling’ Member State and added to the renewable energy share in the ‘buying’ Member State. Such a transfer allows a receiving Member State to reach its renewable energy target for 2020 (under Directive 2009/28/EC) or contributions to the overall EU target 2030 (under Directive (EU) 2018/2001).

In order to facilitate such transfers, Article 8 of Directive (EU) 2018/2001 empowers the Commission to adopt a delegated act to establish a Union renewable development platform, the ‘URDP’.

### 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

During the preparation of the platform, the Commission, consulted with a number of Member States interested in statistical transfers, and in addition, held a workshop where 23 Member States were represented in December 2020 to present the concept of the platform.

The draft delegated act was published for feedback for a four-week period from 29 April – 28 May 2021. No open public consultation was held as this is not a major item in the Commission work programme.

Overall, the feedback confirmed the importance of the facilitation of the transfer of energy statistics. Some comments raised general concerns related to the sustainability of statistical transfers and the need for more details on the functioning of the platform. None of the comments did prompt the Commission to amend the text of the draft act.

### 3. LEGAL ELEMENTS OF THE DELEGATED ACT

#### **Legal basis**

The proposed regulation is a delegated measure adopted pursuant to Article 8(3) of Directive (EU) 2018/2001. Under Article 8(1) of the Directive Member States may agree on the statistical transfer of a specified amount of energy from renewable sources from one Member State to another Member State. In order to facilitate such transfers, the Commission is empowered to establish the URDP.

#### **Subsidiarity**

Directive (EU) 2018/2001 sets a binding Union target for the share of energy from renewable sources in 2030 of at least 32%. It requires the Member State to set national contributions to meet, collectively, the Union target. In order to help Member States to reach their contribution, statistical transfers can be made between the Member States. This mechanism already existed under the previous renewable energy Directive 2009/28/EC and the first agreements were concluded in 2017, followed by several in 2020.

The URDP will be an online tool with information on the progress of Member States towards their contributions, their interest to buy or sell statistical transfers and under which conditions (e.g. volume, price, link to actual project etc.) as well as supporting material, such as model agreements. This will make it easier for Member States to engage in statistical transfers, which in turn will help the collective achievement of the Union’s renewable energy target for

2030. So far, a limited number of agreements on statistical transfers have been made based on bilateral contacts, which, however, can involve high transaction costs and time lags.

The Commission will establish the URDP on its website (or linked to it).

For these reasons, EU action in establishing the URDP brings added value because it helps Member States to conclude agreements more effectively and efficiently as without the UDRP where Member States would have to collect the information and find cooperation partners on an individual basis.

### **Proportionality**

The URDP will facilitate the conclusion between Member States of statistical transfer arrangements by providing information, indicating potential opportunities for statistical transfers and by providing contact points for each Member State. It is not compulsory for Member States to use the URDP, and Member States have full flexibility over the details to include in any transfer agreement. The creation of the URDP does not go beyond what is necessary to achieve the aim of helping Member States to conclude statistical transfers in order to facilitate the achievement of the Union's 2030 target for renewable energy.

### **Choice of instrument**

The proposed form of action is a directly applicable Commission delegated regulation supplementing Directive 2018/2001. This is required under Article 8 of Directive (EU) 2018/2001, which empowers the Commission to adopt a delegated act in order to establish the URDP.

COMMISSION DELEGATED REGULATION (EU) .../...

of 12.8.2021

supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council  
by establishing the Union renewable development platform

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2018/2001 of 11 December on the promotion of the use of energy from renewable sources<sup>1</sup>, and in particular Article 8(3) thereof,

Whereas:

- (1) Directive (EU) 2018/2001 sets out a number of cooperation mechanisms to facilitate the achievement of the Union targets for renewable energy in a cost-effective manner, including statistical transfers of energy from renewable sources between Member States. Statistical transfers made pursuant to Article 6 of Directive 2009/28/EC of the European Parliament and of the Council<sup>2</sup> and Article 8 of Directive (EU) 2018/2001, allow Member States that fall short of their renewables target set out by Directive 2009/28/EC, or their renewables contribution referred to in Article 3 of Directive (EU) 2018/2001, to buy renewable energy statistics from Member States that are exceeding their target or contribution. Statistical transfers may also be used by Member States to meet the reference points of the indicative trajectory pursuant to Article 32(3), point (e) of Regulation (EU) 2018/1999 of the European Parliament and of the Council<sup>3</sup>.
- (2) Pursuant to Article 3(6) of Directive (EU) 2018/2001 the Commission is to establish a facilitative platform in order to support Member States using cooperation mechanisms to contribute to the binding overall Union target for renewable energy.
- (3) In order to facilitate statistical transfers between Member States, the Commission is empowered to establish a Union renewable development platform ('URDP'). The URDP should provide an overview of the target and contribution achievement in Member States, include information provided by Member States on supply and demand for statistical transfers of renewable energy, allow Member States to indicate their willingness to engage in statistical transfers and describe the possible conditions for a transfer, identify potential transfer partners through a matching mechanism and

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<sup>1</sup> OJ L 328, 21.12.2018, p. 82.

<sup>2</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

<sup>3</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

provide the contact points in charge of statistical transfers in the Member States. The URDP should also contain a repository with guidance documents and an overview of available information on concluded statistical transfer arrangements. Use of the URDP should be on a voluntary basis.

- (4) The URDP should facilitate agreements on statistical transfers. Potential transfers identified by means of the matching mechanism should not be legally binding.
- (5) The data on aggregated energy quantities available for statistical transfers used for the URDP should come from third party assessments, and from the integrated national energy and climate plans, the updated integrated national energy and climate plans, and the integrated national energy and climate progress reports, as appropriate, submitted by Member States pursuant to Regulation (EU) 2018/1999. The Commission should feed those data into the platform. Additionally, Member States should be able to indicate the amount of statistical transfers they are interested in making, as buyers or sellers, as well as any particular conditions for the statistical transfer they are interested in including.
- (6) In order to ensure the protection of sensitive data relevant to transfers between Member States, access to the URDP should be limited to specific contact points identified by the Member States. Therefore, Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>4</sup> should apply where relevant.
- (7) In order to assist Member States in the conclusion of statistical transfers of energy from renewable sources, the Commission should provide guidance material about the URDP, including a user manual and templates as well as relevant information on concluded statistical transfer agreements.
- (8) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the third day following that of its publication in the Official Journal of the European Union,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation establishes the Union renewable development platform ('URDP') to facilitate statistical transfers for the purposes of Directive (EU) 2018/2001, and to facilitate the achievement of the Union target set out in Article 3(1) of Directive (EU) 2018/2001 and of each Member State's contribution to that target in accordance with Article 3(2) of that Directive.

#### *Article 2*

##### **Definitions**

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

- (1) "statistical transfer" means the transfer of the statistical value, without requiring a physical transfer, of a specified amount of energy from renewable sources as reported under Annex B, point 5 to Regulation (EU) 1099/2008 on

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<sup>4</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

energy statistics from one Member State to another Member State, which amount is deducted from the amount of energy from renewable sources that is taken into account in calculating the renewable energy share of the Member State making the transfer and added to the amount of energy from renewable sources that is taken into account in calculating the renewable energy share of the Member State accepting the transfer;

- (2) “buying Member State” means a Member State that enters into a statistical transfer agreement to buy a certain statistical quantity of renewable energy from another Member State which is added to the amount of energy from renewable sources that is taken into account in calculating the former Member State’s renewable energy share pursuant to Article 8(1) of Directive (EU) 2018/2001;
- (3) “selling Member State” means a Member State that enters into a statistical transfer agreement to sell a certain statistical quantity of renewable energy to another Member State which is deducted from the amount of energy from renewable sources that is taken into account in calculating the former Member State’s renewable energy share pursuant to Article 8(1) of Directive (EU) 2018/2001;
- (4) “additional conditions” means criteria, beyond the timing, price and volume of a statistical transfer, that Member States may choose to attach to a statistical transfer agreement;
- (5) “energy from renewable sources” or “renewable energy” means energy from renewable sources or renewable energy as defined in Article 2(1) of Directive (EU) 2018/2001;
- (6) “statistical transfer volume” or “volume” means the transferred volume of renewable energy to be deducted from the selling Member State's statistical accounts and added to those of the buying Member State pursuant to Article 8(1) of Directive (EU) 2018/2001.

### *Article 3*

#### **Objectives**

1. The URDP aims to facilitate statistical transfers of energy from renewable sources for the purposes of Directive (EU) 2018/2001 and to facilitate the achievement of the Union target set out in Article 3(1) of Directive (EU) 2018/2001 and of each Member State's contribution to that target established in accordance with Article 3(2) of Directive (EU) 2018/2001.
2. The URDP shall:
  - (a) identify potential opportunities for statistical transfers among Member States by providing aggregated information on:
    - (i) Member States which have exceeded or are expected to exceed their renewable contribution or target and thus potentially have excess renewable statistical amounts to be transferred to another Member State;
    - (ii) Member States which have fallen short or are expected to fall short of their renewable contribution or target and could therefore be potentially in deficit of renewable statistical amounts;

- (b) include information provided by Member States on supply and demand for statistical transfers of renewable energy, including volume, price and time frame as well as any additional conditions for the transfer;
  - (c) facilitate agreements on statistical transfers between Member States through a non-binding matching mechanism of demand for and supply of statistical transfers between Member States and by providing contact points in Member States to enter into discussions on agreements;
  - (d) provide access to guidance material assisting Member States in concluding statistical transfers;
  - (e) increase transparency on concluded statistical transfer agreements by providing key information on those transfers, including information about volumes, prices and timing as well as the related statistical transfer agreement documents, where they are publicly available.
3. In addition to the objectives set out in paragraph 2, the URDP may provide any other functionality relating to the process of statistical transfers of energy from renewable sources to contribute to the objective set out in paragraph 1.

#### *Article 4*

##### **Identification of available energy quantities for statistical transfers**

1. The URDP shall facilitate the conclusion between Member States of statistical transfer agreements by identifying potential opportunities for statistical transfers on the basis of aggregated energy quantities available for statistical transfers.
2. Those potential opportunities may be identified on the basis of an estimation of expected energy quantities available for statistical transfers per country until 2030 derived from publicly available information, including the integrated national energy and climate plans, their updates and the integrated national energy and climate progress reports submitted by Member States pursuant to Regulation (EU) 2018/1999 and third-party assessments.

#### *Article 5*

##### **Requests to buy or sell from Member States**

1. Member States may, on a voluntary basis, submit to the URDP annual data indicating the quantities of their supply and demand for statistical transfers of energy from renewable sources, including:
  - (a) the volume of energy from renewable sources which they seek to buy or sell from or to another Member State through a statistical transfer, including, as applicable, any fixed or flexible volume component;
  - (b) the indication of a price or a price range at which they would accept to buy or sell any excess production of energy from renewable sources from or to another Member State through a statistical transfer, including as applicable, any fixed or flexible price component;
  - (c) the time frame for which a statistical transfer may be concluded, including, as applicable, a single year or several years, the previous or current year or other future years;



- (d) any other additional conditions or priorities to be attached to the statistical transfer.
2. Statistical transfer volumes shall be provided in “ktoe” (thousand tonnes of oil equivalent), “GWh” (Gigawatt-hour), “TJ” (Terajoules) or other equivalent energy unit. When a conversion takes place from mass or volume, the corresponding calorific value shall also be included. The quantity of energy from renewable sources subject to the statistical transfer shall be rounded to 3 decimal points.
  3. The data provided by a Member State shall not constitute any legal obligation on this Member State to enter into an agreement with another Member State. It shall only serve for information purposes to facilitate negotiations between Member States. The data shall only be available on the URDP to other Member States and to the Commission.
  4. The URDP shall include a matching mechanism for the purposes of matching supply and demand as indicated by Member States and identifying potential transfers of energy from renewable sources with other Member States.
  5. Any potential transfers identified by the URDP matching mechanism shall be non-binding and shall only serve for information purposes regarding the conclusion of statistical transfer agreements between Member States.

#### *Article 6*

##### **Access to the URDP and Member States contact points**

1. Member States shall specify to the Commission the persons authorised to have access to the URDP. Access shall only be denied to those persons where it is considered justified in terms of numbers or function of such persons.
2. Member States shall each designate a contact point in charge of statistical transfers of energy from renewable sources, submit the information to the URDP and update it as necessary. The URDP shall make the information about the contact points of each Member State available.

#### *Article 7*

##### **Guidance and information**

1. The Commission shall provide guidance materials about the URDP and its use to assist Member States in concluding statistical transfers, including a user manual on statistical transfers.
2. On the URDP the Commission may provide access to additional resources and information related to the URDP, including an agreement template, articles and reports in the field of statistical transfers of energy from renewable sources.
3. The Commission shall make available on the URDP information on statistical transfer agreements concluded on it, including their timing, volume, price, additional conditions and the related statistical transfer agreement, as well as information on the timing, volume and the participating Member States with regard to statistical transfer agreements concluded on the basis of Article 8 of Directive (EU) 2018/2001 as well as on Article 6 of Directive 2009/28/EC outside the platform.

*Article 8*  
***Entry into force***

This Regulation shall enter into force on the third 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, 12.8.2021

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*