Commission Implementing Regulation (EU) 2020/1294 of 15 September 2020 on the Union renewable energy financing mechanism (Text with EEA relevance)

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on the Union renewable energy financing mechanism

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Article 33 thereof,

Whereas:

(1) Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action sets out the necessary legislative foundation for a cost-efficient, transparent and predictable governance of the Energy Union and Climate Action. The aim is to ensure the achievement of the objectives of the Energy Union and the long-term Union greenhouse gas emissions commitments consistent with the Paris Agreement, and, in particular, of the targets and objectives in the field of greenhouse gas ('GHG') emission reduction, energy from renewable sources and energy efficiency.

(2) Directive (EU) 2018/2001 of the European Parliament and of the Council[(2)] introduced a new, binding, renewable energy target for the Union for 2030 of at least 32 % of gross final energy consumption.

(3) With a view to achieving the Union's binding target of at least 32 % renewable energy in 2030, Member States need to contribute with a share of energy from renewable sources in gross final consumption of energy. The overall Union's binding target is underpinned by obligations for the Member States to deploy renewable energy also in the heating and cooling and transport sectors pursuant to Articles 23 and 25 of Directive (EU) 2018/2001. Moreover, Regulation (EU) 2018/1999 sets out an indicative trajectory from 2021 to 2030 for each Member State's contribution of renewable energy sources and for the Union's target, with three reference points to be reached in 2022, 2025 and 2027.

(4) In order to enable adequate monitoring and early corrective action by Member States and the Commission, the Commission should assess the achievement of the reference

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points in 2022, 2025 and 2027 on the basis of the Member States' integrated national energy and climate progress reports, among other things.

(5) Where the Commission concludes, in that context, that one or more of the Union reference points were not met, Member States which have fallen below their national reference point should ensure that additional measures are implemented in order to fill the gap towards the EU 2030 renewables target. One of those measures could consist of a voluntary financial payment to the Union renewable energy financing mechanism with the aim of closing the gap, in part or entirely, as regards the national reference points in as much as renewable energy generated by installations financed by the financing mechanism would be statistically attributed to the participating Member States, reflecting their relative payments. That mechanism should facilitate the Member States with the opportunity to increase the sectoral share of renewable energy in the electricity, heating and cooling, and transport sector.

(6) Directive (EU) 2018/2001 requires the Commission to support the ambition of Member States in the field of renewable energy through an enabling framework, including through enhanced use of Union funds. In particular, that support should aim at reducing the cost of capital for renewable energy projects and enhancing regional cooperation between Member States and between Member States and third countries, through joint projects, joint support schemes and the opening of support schemes for renewable electricity to producers located in other Member States. In that respect and subject to the requirements in Article 5 of Directive (EU) 2018/2001, the participation of a Member State in the mechanism can be considered as an opening of support schemes for electricity from renewable sources.

(7) With the aim of supporting the renewable energy deployment across the Union, the mechanism should contribute to the enabling framework, in particular by providing support in the form of loans and grants.

(8) In order to support that dual objective, that is to say the gap filling function established by Regulation (EU) 2018/1999 and the enabling framework provided for in Directive (EU) 2018/2001, Regulation (EU) 2018/1999 empowers the Commission to adopt implementing acts to set out the necessary provisions for the establishment and functioning of a Union renewable energy financing mechanism.

(9) Regulation (EU) 2018/1999 provides for the mechanism to obtain resources from payments by Member States, Union funds or private sector contributions. Such resources should be accounted for separately and under specific fund sources within the budget line of the mechanism.

(10) As envisaged by Article 33 of Regulation 2018/1999, the additional payments by Member States, which would finance specific items of expenditure, such as support for new renewable energy projects in the Union, should be treated as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(3)] on the financial rules applicable to the general budget of the Union. The Commission should provide transparency as regards the implementation of the external assigned revenue by means of regular reporting to the Member States.

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(11) Union funding under the mechanism may be combined with funding from other Union programmes where this is provided for in, and under the conditions set out in, the relevant basic act.

(12) The coordination with Union investment support instruments and funds or programmes as well as blending operations under the Union investment support instrument could be used to facilitate the achievement of the objectives of the mechanism, in particular by enabling the reduction of the cost of capital in host Member States, thereby incentivising the investment in renewable energy projects.

(13) The coordination of Union and national support to new renewable energy projects may rely on the long-term schedule published pursuant to Article 6(3) of Directive (EU) 2018/2001.

(14) Contributions from the private sector can play an important role in funding the mechanism and fostering the uptake of renewable energy projects under that mechanism. Those contributions should count as an addition to the Union binding target of at least 32 %. Thus, private sector contributions can bring added value and ensure additionality of projects. Therefore, to increase the transparency of such additionality, the renewable energy generated by projects receiving support from private sector contributions may be linked to the Union-wide green label referred to in Article 19(13) of Directive (EU) 2018/2001, consistent with the Sustainable Finance taxonomy. To incentivise private sector contributions, the private entity that contributes to the mechanism may request to receive the guarantees of origins for the energy production that corresponds to its contribution and that could be issued for the renewable energy production in accordance with Article 19 of Directive (EU) 2018/2001 and subject to the national legislation.

(15) Regulation (EU) 2018/1999 provides for support from the mechanism in the form of premiums additional to market prices, among others. The tendering and bidding referred to in Article 33 of that Regulation will be implemented through a financial support from the mechanism in the form of grants.

(16) The mechanism should make adequate financial resources available to the awarded projects in a timely manner, which may include disbursing investment support up-front or on the basis of the achievement of milestones.

(17) In addition, pursuant to Regulation (EU) 2018/1999 the mechanism may provide support in the form of financial instruments, such as low-interest loans. In order to implement those financial instruments and at the same time ensure consistency with the efforts to streamline the Union financial instruments under the 2021-2027 Multiannual Financial Framework, it is appropriate to provide such support through other Union instruments or programmes. Cost effectiveness of support may be enhanced by combining repayable forms of support and non-repayable forms of support, for instance through contributions to blending operations under the Union investment support instrument.

(18) The mechanism should allocate the support through competitive calls for proposals to new renewable energy projects, whereby all technologies defined as renewable energy

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technologies under Directive (EU) 2018/2001 should be eligible for support under the financing mechanism. Energy storage could be eligible for support by the mechanism only when deployed in combination with a new renewable energy capacity. The renewable energy projects supported by the mechanism should comply with the relevant Union and national environmental legislation and should fully respect international law.

(19) The Commission, on the basis of the preferences expressed by the host and contributing Member States should be able to, in line with the criteria laid down in Article 4(5) of Directive (EU) 2018/2001, limit the grant award procedures to specific technologies where opening support to all producers of energy from renewable sources would lead to a suboptimal result, in particular as regards electricity.

(20) The Commission can, pursuant to Article 3(5) of Directive (EU) 2018/2001 and on the basis of the expressed preferences by the host and contributing Member States, organise specific grant award procedures which aim to support small-scale projects or innovative projects, including projects in outermost regions and isolated or small islands, as part of the contribution of the mechanism to the enabling framework.

(21) The mechanism's award procedure should ensure sufficient competition in order to allow applicants to reveal their true costs and to avoid collusive behaviour, to minimise transaction costs for the Commission and for applicants and to increase the likelihood of the successful applicant to set up new renewable energy projects.

(22) In line with Regulation (EU) 2018/1999, support for projects financed by Member States' voluntary payments designated by the Member State to fill a gap in its national indicative trajectory, should be allocated to projects bidding at lowest cost or premium. Other award criteria, as well as eligibility or selection criteria, may be established for projects under the enabling function of the mechanism, including with respect to the environmental impact of the projects.

(23) The disbursement of the mechanism's support should also be linked to verified increases of renewable energy capacities or renewable energy production in electricity, heating and cooling, or transport sectors delivered by the projects that are awarded with grants by the mechanism. Such outputs should be specified in the grant agreement and substantial underperformance compared to planned increases of capacities (kW) or energy delivered, as set out in the grant agreement, may lead to the use of the relevant provisions governing suspension, termination and reduction in Regulation (EU, Euratom) 2018/1046 by the granting authority.

(24) The mechanism should be implemented in accordance with the principles of sound financial management and performance laid down in Regulation (EU, Euratom) 2018/1046. In particular, the Commission should take appropriate measures to ensure that, where activities financed under this Regulation are implemented, the financial interests of the Union are protected, for instance, through preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities, fraud or breach of obligations are detected, by the recovery of the amounts unduly paid.

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(25) Where a grant award procedure fails it is appropriate for the Commission to offer the contributing Member State the possibility to either recuperate the amount that it contributed or to wait for the Commission to organise a new call, given that the funds of the mechanism qualifying as external assigned revenues can be automatically carried over. For that purpose, a proper accounting system should be set up. In case the Member State waits for the Commission to organise a new call, it should be considered to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 until the new call is organised.

(26) In case of failure of the applicant to implement the project and in order to safeguard the legitimate expectations of Member States, it is appropriate that the Member States participating in a project which failed to be implemented by the applicant should be considered to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 for an amount of energy calculated and accounted for separately by the Commission on the basis of the expected generation capacity, the financial contribution paid by that Member State, and the ceiling prices applicable to the call in which that Member State committed to participate, for the period during which the project would have given rise to statistical benefits according to Article 27(2). This should be without prejudice to the renewable energy target for the Union for 2030 of at least 32 % pursuant to Directive (EU) 2018/2001.

(27) With respect to grant award procedures, the Commission should implement the financing mechanism directly or through an executive agency. In accordance with Article 69 of Regulation (EU, Euratom) 2018/1046, the Commission should be able to delegate, as appropriate, specific implementation tasks to an executive agency, such as the preparation of the calls for proposals, the evaluation procedure, the contractual management of grants, and the monitoring of project implementation. With respect to support in any form laid down in Regulation (EU, Euratom) 2018/1046 other than grants, it will be implemented through other Union instruments or programmes by entrusting budget implementation tasks.

(28) Pursuant to Article 33(3) of Regulation (EU) 2018/1999, host Member States retain the right to decide whether, and if so, under which conditions they allow installations located on their territory to receive support from the mechanism. In accordance with that provision, host Member States should be allowed to express preferences regarding the calls for proposals to be conducted by the mechanism in as much as they relate to the implementation of the project within their territory, including as regards the environmental impact of the projects.

(29) Considering the double objective of the mechanism, on the one hand as a gap filler in the context of Article 33(1) of Regulation (EU) 2018/1999 and, on the other hand, supporting the enabling framework pursuant to Article 33(2) of Regulation (EU) 2018/1999, Member States should play an important role in implementing the mechanism.

(30) The renewable energy generated each year by installations that received non-repayable financial support by the financing mechanism should be statistically attributed to the participating Member States in a way that reflects the relative financial contributions