Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the Official Journal of the European Union

COUNCIL REGULATION (EU) No 216/2013

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on the electronic publication of the *Official Journal of the European Union*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 352 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 consent of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Article 297 of the Treaty on the Functioning of the European Union (TFEU) deals with the publication in the *Official Journal of the European Union* (hereinafter 'the Official Journal') and the entry into force of legal acts of the Union.

(2) Regulation (EC) No 1/1958[(1)], including any subsequent amendments thereto, determines the official languages of the institutions of the European Union.

(3) The printed edition of the Official Journal, available in all official languages of the institutions of the Union, is at present the only legally binding publication, although it is also made available online.

(4) Decision 2009/496/EC, Euratom of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions of 26 June 2009 on the organisation and operation of the Publications Office of the European Union[(2)] ensures that the Publications Office enables the institutions to fulfil their obligation to publish legislative texts.

(5) The Court of Justice of the European Union has held, in Case C-161/06 Skoma-Lux sro *v* Celní ředitelství Olomouc[(3)], that legal acts of the Union are not enforceable against individuals if they have not been properly published in the Official Journal and that making such acts available online does not equate to valid publication in the Official Journal in the absence of any rules in that regard in Union law.

(6) If publication in the Official Journal in electronic form were to constitute valid publication, access to Union law would be faster and more economical. Citizens should,

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 216/2013. (See end of Document for details)*

nevertheless, continue to have the possibility to obtain a printed version of the Official Journal from the Publications Office.

(7) The Commission Communication entitled 'A Digital Agenda for Europe' highlights that access to online legal content favours the development of a digital internal market, which leads to economic and social benefits.

(8) Rules ensuring the authenticity, integrity and inalterability of the electronic publication of the Official Journal should therefore be laid down.

(9) This Regulation should also lay down rules applicable in cases where, due to unforeseen and exceptional circumstances, it is not possible to publish and to make available the electronic edition of the Official Journal.

(10) Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures[(4)] establishes the legal effects of electronic signatures as a means for authentication. For the purposes of ensuring the authenticity, integrity and inalterability of the electronic edition of the Official Journal, an advanced electronic signature based on a qualified certificate and created by a secure-signature-creation device in accordance with that Directive provides sufficient guarantees to the public. It should be possible to verify the electronically signed Official Journal by readily available means.

(11) Access to the EUR-Lex website is to be ensured in compliance with the commitments for the protection of persons with disabilities in accordance with Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities[(5)].

(12) In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve the objective of enabling all European citizens to rely on the electronic publication of the Official Journal, as its scope is limited to making such publication authentic, in the same way as the printed publication is today.

(13) The TFEU does not provide, for the adoption of this Regulation, powers other than those under Article 352,

HAS ADOPTED THIS REGULATION:

Article 1

1 The Official Journal shall be published in electronic form, in accordance with this Regulation, in the official languages of the institutions of the European Union.

2 Without prejudice to Article 3, only the Official Journal published in electronic form (hereinafter 'the electronic edition of the Official Journal') shall be authentic and shall produce legal effects.

Article 2

[F1 1 The electronic edition of the Official Journal shall bear a qualified electronic signature defined in accordance with Regulation (EU) No 910/2014 of the European Parliament and of

the Council[6], or a qualified electronic seal defined in accordance with Regulation (EU) No 910/2014. Qualified certificates for electronic signature or for electronic seal and renewals thereof shall be published on the EUR-Lex website to allow the public to verify the qualified electronic signature or qualified electronic seal and the authenticity of the electronic edition of the Official Journal.**]**

2 The electronic edition of the Official Journal shall display information regarding its publication date.

3 The electronic edition of the Official Journal shall be made available to the public on the EUR-Lex website in a non-obsolete format and for an unlimited period. Its consultation shall be free of charge.

Textual Amendments

F1 Substituted by Council Regulation (EU) 2018/2056 of 6 December 2018 amending Regulation (EU) No 216/2013 on the electronic publication of the Official Journal of the European Union.

Article 3

1 Where it is not possible to publish the electronic edition of the Official Journal due to an unforeseen and exceptional disruption of the information system of the Publications Office, the information system shall be restored as soon as possible.

The moment at which such a disruption occurs shall be established by the Publications Office.

2 Where it is necessary to publish the Official Journal when the information system of the Publications Office is not operational pursuant to a disruption as referred to in paragraph 1, only the printed edition of the Official Journal shall be authentic and shall produce legal effects.

Once the information system of the Publications Office is restored, the corresponding electronic version of the printed edition referred to in the first subparagraph shall be made available to the public on the EUR-Lex website for information purposes only and shall contain a notice to that effect.

3 Once the information system of the Publications Office is restored, the EUR-Lex website shall provide information on all printed editions that are authentic and that produce legal effects in accordance with the first subparagraph of paragraph 2.

Article 4

1 With regard to the electronic edition of the Official Journal, the Publications Office shall be responsible for:

a publishing it and guaranteeing its authenticity;

b implementing, managing and maintaining the information system producing the electronic edition of the Official Journal, and upgrading that system in line with future technical developments;

c implementing and extending the technical facilities to ensure accessibility for all users to the electronic edition of the Official Journal;

d setting up internal security and access rules with regard to the information system producing the electronic edition of the Official Journal;

e preserving and archiving the electronic files and handling them in line with future technological developments.