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► **B** REGULATION (EU) No 531/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 June 2012

on roaming on public mobile communications networks within the Union

(recast)

(Text with EEA relevance)

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**REGULATION (EU) No 531/2012 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

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**on roaming on public mobile communications networks within the
Union**

(recast)

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Article 1

Subject matter and scope

1. This Regulation introduces a common approach to ensuring that users of public mobile communications networks, when travelling within the Union, do not pay excessive prices for Union-wide roaming services in comparison with competitive national prices, when making calls and receiving calls, when sending and receiving SMS messages and when using packet switched data communication services, thereby contributing to the smooth functioning of the internal market while achieving a high level of consumer protection, fostering competition and transparency in the market and offering both incentives for innovation and consumer choice.

It lays down rules to enable the separate sale of regulated roaming services from domestic mobile communications services and sets out the conditions for wholesale access to public mobile communications networks for the purpose of providing regulated roaming services. It also lays down transitory rules on the charges that may be levied by roaming providers for the provision of regulated roaming services for voice calls and SMS messages originating and terminating within the Union and for packet switched data communication services used by roaming customers while roaming on a mobile communications network within the Union. It applies both to charges levied by network operators at wholesale level and to charges levied by roaming providers at retail level.

2. The separate sale of regulated roaming services from domestic mobile communications services is a necessary intermediate step to increase competition so as to lower roaming tariffs for customers in order to achieve an internal market for mobile communication services and ultimately for there to be no differentiation between national and roaming tariffs.

3. This Regulation also lays down rules aimed at increasing price transparency and improving the provision of information on charges to users of roaming services.

4. This Regulation constitutes a specific measure within the meaning of Article 1(5) of the Framework Directive.

5. The maximum charges set out in this Regulation are expressed in euro.

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6. Where maximum charges under Articles 7, 9 and 12 are denominated in currencies other than the euro, the initial limits pursuant to those Articles shall be determined in those currencies by applying the reference exchange rates published on 1 May 2012 by the European Central Bank in the *Official Journal of the European Union*.

For the purposes of the subsequent limits provided for in Article 7(2), Article 9(1), and Article 12(1), the revised values shall be determined by applying the reference exchange rates so published on 1 May of the relevant calendar year. For the maximum charges under Article 7(2), Article 9(1) and Article 12(1), the limits in currencies other than the euro shall be revised annually as from 2015. The annually revised limits in those currencies shall apply from 1 July using the reference exchange rates published on 1 May of the same year.

7. Where maximum charges under Articles 8, 10 and 13 are denominated in currencies other than the euro, the initial limits pursuant to those Articles shall be determined in those currencies by applying the average of the reference exchange rates published on 1 March, 1 April and 1 May 2012 by the European Central Bank in the *Official Journal of the European Union*.

For the purposes of the subsequent limits provided for in Article 8(2), Article 10(2) and Article 13(2), the revised values shall be determined by applying the average of the reference exchange rates so published on 1 March, 1 April and 1 May of the relevant calendar year. For the maximum charges under Article 8(2), Article 10(2) and Article 13(2), the limits in currencies other than euro shall be revised annually as from 2015. The annually revised limits in those currencies shall apply from 1 July using the average of the reference exchange rates published on 1 March, 1 April and 1 May of the same year.

*Article 2***Definitions**

1. For the purposes of this Regulation, the definitions set out in Article 2 of the Access Directive, Article 2 of the Framework Directive, and Article 2 of the Universal Service Directive shall apply.

2. In addition to the definitions referred to in paragraph 1, the following definitions shall apply:

- (a) ‘roaming provider’ means an undertaking that provides a roaming customer with regulated retail roaming services;
- (b) ‘domestic provider’ means an undertaking that provides a roaming customer with domestic mobile communications services;
- (c) ‘alternative roaming provider’ means a roaming provider different from the domestic provider;
- (d) ‘home network’ means a public communications network located within a Member State and used by the roaming provider for the provision of regulated retail roaming services to a roaming customer;

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- (e) ‘visited network’ means a terrestrial public mobile communications network situated in a Member State other than that of the roaming customer’s domestic provider that permits a roaming customer to make or receive calls, to send or receive SMS messages or to use packet switched data communications, by means of arrangements with the home network operator;
- (f) ‘Union-wide roaming’ means the use of a mobile device by a roaming customer to make or receive intra-Union calls, to send or receive intra-Union SMS messages, or to use packet switched data communications, while in a Member State other than that in which the network of the domestic provider is located, by means of arrangements between the home network operator and the visited network operator;
- (g) ‘roaming customer’ means a customer of a roaming provider of regulated roaming services, by means of a terrestrial public mobile communications network situated in the Union, whose contract or arrangement with that roaming provider permits Union-wide roaming;
- (h) ‘regulated roaming call’ means a mobile voice telephony call made by a roaming customer, originating on a visited network and terminating on a public communications network within the Union or received by a roaming customer, originating on a public communications network within the Union and terminating on a visited network;

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- (j) ‘SMS message’ means a Short Message Service text message, composed principally of alphabetical and/or numerical characters, capable of being sent between mobile and/or fixed numbers assigned in accordance with national numbering plans;
- (k) ‘regulated roaming SMS message’ means an SMS message sent by a roaming customer, originating on a visited network and terminating on a public communications network within the Union or received by a roaming customer, originating on a public communications network within the Union and terminating on a visited network;

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- (m) ‘regulated data roaming service’ means a roaming service enabling the use of packet switched data communications by a roaming customer by means of his mobile device while it is connected to a visited network. A regulated data roaming service does not include the transmission or receipt of regulated roaming calls or SMS messages, but does include the transmission and receipt of MMS messages;

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- (o) ‘wholesale roaming access’ means direct wholesale roaming access or wholesale roaming resale access;
- (p) ‘direct wholesale roaming access’ means the making available of facilities and/or services by a mobile network operator to another undertaking, under defined conditions, for the purpose of that other undertaking providing regulated roaming services to roaming customers;
- (q) ‘wholesale roaming resale access’ means the provision of roaming services on a wholesale basis by a mobile network operator different from the visited network operator to another undertaking for the purpose of that other undertaking providing regulated roaming services to roaming customers;

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- (r) ‘domestic retail price’ means a roaming provider’s domestic retail per-unit charge applicable to calls made and SMS messages sent (both originating and terminating on different public communications networks within the same Member State), and to data consumed by a customer; in the event that there is no specific domestic retail per-unit charge, the domestic retail price shall be deemed to be the same charging mechanism as that applied to the customer for calls made and SMS messages sent (both originating and terminating on different public communications networks within the same Member State), and data consumed in that customer’s Member State;
- (s) ‘separate sale of regulated retail data roaming services’ means the provision of regulated data roaming services provided to roaming customers directly on a visited network by an alternative roaming provider.

▼ B*Article 3***Wholesale roaming access**

1. Mobile network operators shall meet all reasonable requests for wholesale roaming access.
2. Mobile network operators may refuse requests for wholesale roaming access only on the basis of objective criteria.
3. Wholesale roaming access shall cover access to all network elements and associated facilities, relevant services, software and information systems, necessary for the provision of regulated roaming services to customers.

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4. Rules on regulated wholesale roaming charges laid down in Articles 7, 9 and 12 shall apply to the provision of access to all components of wholesale roaming access referred to in paragraph 3, unless both parties to the wholesale roaming agreement explicitly agree that any average wholesale roaming charge resulting from the application of the agreement is not subject to the maximum regulated wholesale roaming charge for the period of validity of the agreement.

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Without prejudice to the first subparagraph, in the case of wholesale roaming resale access, mobile network operators may charge fair and reasonable prices for components not covered by paragraph 3.

5. Mobile network operators shall publish a reference offer, taking into account the BEREC guidelines referred to in paragraph 8, and make it available to an undertaking requesting wholesale roaming access. Mobile network operators shall provide the undertaking requesting access with a draft contract, complying with this Article, for such access at the latest one month after the initial receipt of the request by the mobile network operator. The wholesale roaming access shall be granted within a reasonable period of time not exceeding three months from the conclusion of the contract. Mobile network operators receiving a wholesale roaming access request and undertakings requesting access shall negotiate in good faith.

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6. The reference offer referred to in paragraph 5 shall be sufficiently detailed and shall include all components necessary for wholesale roaming access as referred to in paragraph 3, providing a description of the offerings relevant for direct wholesale roaming access and wholesale roaming resale access, and the associated terms and conditions.

That reference offer may include conditions to prevent permanent roaming or anomalous or abusive use of wholesale roaming access for purposes other than the provision of regulated roaming services to roaming providers' customers while the latter are periodically travelling within the Union. Where specified in a reference offer, such conditions shall include the specific measures that the visited network operator may take to prevent permanent roaming or anomalous or abusive use of wholesale roaming access as well as the objective criteria on the basis of which such measures may be taken. Such criteria may refer to aggregate roaming traffic information. They shall not refer to specific information relating to individual traffic of the roaming provider's customers.

The reference offer may, inter alia, provide that where the visited network operator has reasonable grounds for considering that permanent roaming by a significant share of the roaming provider's customers or anomalous or abusive use of wholesale roaming access is taking place, the visited network operator may require the roaming provider to provide, without prejudice to Union and national data protection requirements, information allowing the determination of whether a significant share of the roaming provider's customers is in a situation of permanent roaming or whether there is anomalous or abusive use of wholesale roaming access on the network of the visited operator, such as information on the share of customers for which a risk of anomalous or abusive use of regulated retail roaming services provided at the applicable domestic retail price has been established on the basis of objective indicators in accordance with the detailed rules on the application of the fair use policy adopted pursuant to Article 6d.

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The reference offer may, as a last resort, where less stringent measures have failed to address the situation, provide for the possibility to terminate a wholesale roaming agreement where the visited network operator has established that, based on objective criteria, permanent roaming by a significant share of the roaming provider's customers or anomalous or abusive use of wholesale roaming access is taking place, and has informed the home network operator accordingly.

The visited network operator may terminate the wholesale roaming agreement unilaterally on grounds of permanent roaming or anomalous or abusive use of wholesale roaming access only upon prior authorisation of the visited network operator's national regulatory authority.

Within three months of receipt of a request by the visited network operator for authorisation to terminate a wholesale roaming agreement, the national regulatory authority of the visited network operator shall, after consulting the national regulatory authority of the home network operator, decide whether to grant or refuse such authorisation and shall inform the Commission accordingly.

The national regulatory authorities of the visited network operator and of the home network operator may each request BEREC to adopt an opinion with regard to the action to be taken in accordance with this Regulation. BEREC shall adopt its opinion within one month of receipt of such a request.

Where BEREC has been consulted, the national regulatory authority of the visited network operator shall await and take the utmost account of BEREC's opinion before deciding, subject to the three-month deadline referred to in the sixth subparagraph, whether to grant or refuse authorisation for the termination of the wholesale roaming agreement.

The national regulatory authority of the visited network operator shall make information concerning authorisations to terminate wholesale roaming agreements available to the public, subject to business confidentiality.

The fifth to ninth subparagraphs of this paragraph shall be without prejudice to the power of a national regulatory authority to require the immediate cessation of a breach of the obligations set out in this Regulation, pursuant to Article 16(6) and to the right of the visited network operator to apply adequate measures in order to combat fraud.

If necessary, national regulatory authorities shall impose changes to reference offers, including as regards the specific measures that the visited network operator may take to prevent permanent roaming or anomalous or abusive use of wholesale roaming access, and the objective criteria on the basis of which the visited network operator may take such measures, to give effect to obligations laid down in this Article.

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7. Where the undertaking requesting the access desires to enter into commercial negotiations to also include components not covered by the reference offer, the mobile network operators shall respond to such a request within a reasonable period of time not exceeding two months from its initial receipt. For the purposes of this paragraph, paragraphs 2 and 5 shall not apply.

8. By 30 September 2012, and in order to contribute to the consistent application of this Article, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down guidelines for wholesale roaming access.

9. Paragraphs 5 to 7 shall apply from 1 January 2013.

*Article 4***▼ M1****Separate sale of regulated retail data roaming services****▼ B**

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Neither domestic nor roaming providers shall prevent customers from accessing regulated data roaming services provided directly on a visited network by an alternative roaming provider.

2. Roaming customers shall have the right to switch roaming provider at any time. Where a roaming customer chooses to switch roaming provider, the switch shall be carried out without undue delay, and in any case within the shortest possible period of time depending on the technical solution chosen for the implementation of the separate sale of regulated retail roaming services, but under no circumstances exceeding three working days from the conclusion of the agreement with the new roaming provider.

3. The switch to an alternative roaming provider or between roaming providers shall be free of charge for customers and shall be possible under any tariff plan. It shall not entail any associated subscription or additional fixed or recurring charges, pertaining to elements of the subscription other than roaming, as compared to the conditions prevailing before the switch.

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6. This Article shall apply from 1 July 2014.

*Article 5***▼ M1****Implementation of separate sale of regulated retail data roaming services**

1. Domestic providers shall implement the obligation related to the separate sale of regulated retail data roaming services provided for in Article 4 so that roaming customers can use separate regulated data roaming services. Domestic providers shall meet all reasonable requests for access to facilities and related support services relevant

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for the separate sale of regulated retail data roaming services. Access to those facilities and support services that are necessary for the separate sale of regulated retail data roaming services, including user authentication services, shall be free of charge and shall not entail any direct charges to roaming customers.

2. In order to ensure consistent and simultaneous implementation across the Union of the separate sale of regulated retail data roaming services, the Commission shall, by means of implementing acts and after having consulted BEREC, adopt detailed rules on a technical solution for the implementation of the separate sale of regulated retail data roaming services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2).

3. The technical solution to implement the separate sale of regulated retail data roaming services shall meet the following criteria:

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- (a) consumer friendliness, in particular allowing consumers to easily and quickly switch to an alternative roaming provider while keeping their existing mobile phone number and while using the same mobile device;
- (b) ability to serve all categories of consumer demand on competitive terms, including intensive usage of data services;
- (c) ability to effectively foster competition, taking also into account the scope for operators to exploit their infrastructure assets or commercial arrangements;
- (d) cost-effectiveness, taking into account the division of costs between domestic providers and alternative roaming providers;
- (e) ability to give effect to the obligations referred to in Article 4(1) in an efficient manner;
- (f) allowing a maximum degree of interoperability;
- (g) user friendliness, in particular in respect of the customers' technical handling of the mobile device when changing networks;
- (h) ensuring that roaming by Union customers in third countries or by third country customers in the Union is not impeded;
- (i) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency required by the Framework Directive and the Specific Directives are respected;
- (j) taking into account the promotion by national regulatory authorities of the ability of end users to access and distribute information or run applications and services of their choice, in accordance with point (g) of Article 8(4) of the Framework Directive;
- (k) ensuring that providers apply equivalent conditions in equivalent circumstances.

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4. The technical solution may combine one or several technical modalities for the purposes of meeting the criteria set out in paragraph 3.

5. If necessary, the Commission shall give a mandate to a European standardisation body for the adaptation of the relevant standards that are necessary for the harmonised implementation of the separate sale of regulated retail roaming services.

6. Paragraphs 1, 3, 4 and 5 of this Article shall apply from 1 July 2014.

*Article 6***Committee procedure**

1. The Commission shall be assisted by the Communications Committee established by Article 22 of the Framework Directive. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

▼M1*Article 6a***Abolition of retail roaming surcharges**

With effect from 15 June 2017, provided that the legislative act to be adopted following the proposal referred to in Article 19(2) is applicable on that date, roaming providers shall not levy any surcharge in addition to the domestic retail price on roaming customers in any Member State for any regulated roaming calls made or received, for any regulated roaming SMS messages sent and for any regulated data roaming services used, including MMS messages, nor any general charge to enable the terminal equipment or service to be used abroad, subject to Articles 6b and 6c.

*Article 6b***Fair use**

1. Roaming providers may apply in accordance with this Article and the implementing acts referred to in Article 6d a 'fair use policy' to the consumption of regulated retail roaming services provided at the applicable domestic retail price level, in order to prevent abusive or anomalous usage of regulated retail roaming services by roaming customers, such as the use of such services by roaming customers in a Member State other than that of their domestic provider for purposes other than periodic travel.

Any fair use policy shall enable the roaming provider's customers to consume volumes of regulated retail roaming services at the applicable domestic retail price that are consistent with their respective tariff plans.

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2. Article 6e shall apply to regulated retail roaming services exceeding any limits under any fair use policy.

*Article 6c***Sustainability of the abolition of retail roaming surcharges**

1. In specific and exceptional circumstances, with a view to ensuring the sustainability of its domestic charging model, where a roaming provider is not able to recover its overall actual and projected costs of providing regulated roaming services in accordance with Articles 6a and 6b, from its overall actual and projected revenues from the provision of such services, that roaming provider may apply for authorisation to apply a surcharge. That surcharge shall be applied only to the extent necessary to recover the costs of providing regulated retail roaming services having regard to the applicable maximum wholesale charges.

2. Where a roaming provider decides to avail itself of paragraph 1 of this Article, it shall without delay submit an application to the national regulatory authority and provide it with all necessary information in accordance with the implementing acts referred to in Article 6d. Every 12 months thereafter, the roaming provider shall update that information and submit it to the national regulatory authority.

3. Upon receipt of an application pursuant to paragraph 2, the national regulatory authority shall assess whether the roaming provider has established that it is unable to recover its costs in accordance with paragraph 1, with the effect that the sustainability of its domestic charging model would be undermined. The assessment of the sustainability of the domestic charging model shall be based on relevant objective factors specific to the roaming provider, including objective variations between roaming providers in the Member State concerned and the level of domestic prices and revenues. The national regulatory authority shall authorise the surcharge where the conditions laid down in paragraph 1 and this paragraph are met.

4. Within one month of receipt of an application pursuant to paragraph 2, the national regulatory authority shall authorise the surcharge unless the application is manifestly unfounded or provides insufficient information. Where the national regulatory authority considers that the application is manifestly unfounded, or considers that insufficient information has been provided, it shall take a final decision within a further period of two months, after having given the roaming provider the opportunity to be heard, authorising, amending or refusing the surcharge.

*Article 6d***Implementation of fair use policy and of sustainability of the abolition of retail roaming surcharges**

1. By 15 December 2016, in order to ensure consistent application of Articles 6b and 6c, the Commission shall, after having consulted BEREC, adopt implementing acts laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on

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the application to be submitted by a roaming provider for the purposes of that assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2).

2. As regards Article 6b, when adopting implementing acts laying down detailed rules on the application of fair use policy, the Commission shall take into account the following:

- (a) the evolution of pricing and consumption patterns in the Member States;
- (b) the degree of convergence of domestic price levels across the Union;
- (c) the travelling patterns in the Union;
- (d) any observable risks of distortion of competition and investment incentives in domestic and visited markets.

3. As regards Article 6c, when adopting implementing acts laying down detailed rules on the methodology for assessing the sustainability of the abolition of retail roaming surcharges for a roaming provider, the Commission shall base them on the following:

- (a) the determination of the overall actual and projected costs of providing regulated retail roaming services by reference to the effective wholesale roaming charges for unbalanced traffic and a reasonable share of the joint and common costs necessary to provide regulated retail roaming services;
- (b) the determination of overall actual and projected revenues from the provision of regulated retail roaming services;
- (c) the consumption of regulated retail roaming services and the domestic consumption by the roaming provider's customers;
- (d) the level of competition, prices and revenues in the domestic market, and any observable risk that roaming at domestic retail prices would appreciably affect the evolution of such prices.

4. The Commission shall periodically review the implementing acts adopted pursuant to paragraph 1 in the light of market developments.

5. The national regulatory authority shall strictly monitor and supervise the application of the fair use policy and the measures on the sustainability of the abolition of retail roaming surcharges, taking utmost account of relevant objective factors specific to the Member State concerned and of relevant objective variations between roaming providers. Without prejudice to the procedure set out in Article 6c(3), the national regulatory authority shall in a timely manner enforce the

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requirements of Articles 6b and 6c and the implementing acts adopted pursuant to paragraph 1 of this Article. The national regulatory authority may at any time require the roaming provider to amend or discontinue the surcharge if it does not comply with Article 6b or 6c. The national regulatory authority shall inform the Commission annually concerning the application of Articles 6b and 6c, and of this Article.

*Article 6e***Provision of regulated retail roaming services**

1. Without prejudice to the second subparagraph, where a roaming provider applies a surcharge for the consumption of regulated retail roaming services in excess of any limits under any fair use policy, it shall meet the following requirements (excluding VAT):

- (a) any surcharge applied for regulated roaming calls made, regulated roaming SMS messages sent and regulated data roaming services shall not exceed the maximum wholesale charges provided for in Articles 7(2), 9(1) and 12(1), respectively;
- (b) the sum of the domestic retail price and any surcharge applied for regulated roaming calls made, regulated roaming SMS messages sent or regulated data roaming services shall not exceed EUR 0,19 per minute, EUR 0,06 per SMS message and EUR 0,20 per megabyte used, respectively;
- (c) any surcharge applied for regulated roaming calls received shall not exceed the weighted average of maximum mobile termination rates across the Union set out in accordance with paragraph 2.

Roaming providers shall not apply any surcharge to a regulated roaming SMS message received or to a roaming voicemail message received. This shall be without prejudice to other applicable charges such as those for listening to such messages.

Roaming providers shall charge roaming calls made and received on a per second basis. Roaming providers may apply an initial minimum charging period not exceeding 30 seconds to calls made. Roaming providers shall charge their customers for the provision of regulated data roaming services on a per-kilobyte basis, except for MMS messages, which may be charged on a per-unit basis. In such a case, the retail charge which a roaming provider may levy on its roaming customer for the transmission or receipt of a roaming MMS message shall not exceed the maximum retail charge for regulated data roaming services set out in the first subparagraph.

During the period referred to in Article 6f(1), this paragraph shall not preclude offers which provide roaming customers, for a per diem or any other fixed periodic charge, with a certain volume of regulated roaming services consumption on condition that the consumption of the full

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amount of that volume leads to a unit price for regulated roaming calls made, calls received, SMS messages sent and data roaming services which does not exceed the respective domestic retail price and the maximum surcharge as set out in the first subparagraph of this paragraph.

2. By 31 December 2015, the Commission shall, after consulting BEREC and subject to the second subparagraph of this paragraph, adopt implementing acts setting out the weighted average of maximum mobile termination rates referred to in point (c) of the first subparagraph of paragraph 1. The Commission shall review those implementing acts annually. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2).

The weighted average of maximum mobile termination rates shall be based on the following criteria:

(a) the maximum level of mobile termination rates imposed in the market for wholesale voice call termination on individual mobile networks by the national regulatory authorities in accordance with Articles 7 and 16 of the Framework Directive and Article 13 of the Access Directive, and

(b) the total number of subscribers in Member States.

3. Roaming providers may offer, and roaming customers may deliberately choose, a roaming tariff other than one set in accordance with Articles 6a, 6b, 6c and paragraph 1 of this Article, by virtue of which roaming customers benefit from a different tariff for regulated roaming services than they would have been accorded in the absence of such a choice. The roaming provider shall remind those roaming customers of the nature of the roaming advantages which would thereby be lost.

Without prejudice to the first subparagraph, roaming providers shall apply a tariff set in accordance with Articles 6a and 6b, and paragraph 1 of this Article to all existing and new roaming customers automatically.

Any roaming customer may, at any time, request to switch to or from a tariff set in accordance with Articles 6a, 6b, 6c and paragraph 1 of this Article. When roaming customers deliberately choose to switch from or back to a tariff set in accordance with Articles 6a, 6b, 6c and paragraph 1 of this Article, any switch shall be made within one working day of receipt of the request, shall be free of charge and shall not entail conditions or restrictions pertaining to elements of the subscriptions other than roaming. Roaming providers may delay a switch until the previous roaming tariff has been effective for a minimum specified period not exceeding two months.

4. Roaming providers shall ensure that a contract which includes any type of regulated retail roaming service specifies the main characteristics of that regulated retail roaming service provided, including in particular:

(a) the specific tariff plan or tariff plans and, for each tariff plan, the types of services offered, including the volumes of communications;

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- (b) any restrictions imposed on the consumption of regulated retail roaming services provided at the applicable domestic retail price level, in particular quantified information on how any fair use policy is applied by reference to the main pricing, volume or other parameters of the provided regulated retail roaming service concerned.

Roaming providers shall publish the information referred to in the first subparagraph.

*Article 6f***Transitional retail roaming surcharges**

1. From 30 April 2016 until 14 June 2017, roaming providers may apply a surcharge in addition to the domestic retail price for the provision of regulated retail roaming services.
2. During the period referred to in paragraph 1 of this Article, Article 6e shall apply *mutatis mutandis*.

▼ B*Article 7***Wholesale charges for the making of regulated roaming calls****▼ M2**

1. With effect from 15 June 2017, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, among others, of origination, transit and termination costs, shall not exceed a safeguard limit of EUR 0,032 per minute. That maximum wholesale charge shall, without prejudice to Article 19, remain at EUR 0,032 until 30 June 2022.
2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the period of application of a maximum average wholesale charge, as provided for in paragraph 1 or before 30 June 2022.

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3. The average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale roaming revenue received by the total number of wholesale roaming minutes actually used for the provision of wholesale roaming calls within the Union by the relevant operator over the relevant period, aggregated on a per-second basis adjusted to take account of the possibility for the operator of the visited network to apply an initial minimum charging period not exceeding 30 seconds.

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▼ B*Article 9***Wholesale charges for regulated roaming SMS messages****▼ M2**

1. With effect from 15 June 2017, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming SMS message originating on that visited network shall not exceed a safeguard limit of EUR 0,01 per SMS message and shall, without prejudice to Article 19, remain at EUR 0,01 until 30 June 2022.

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2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before 30 June 2022.

3. The average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale revenue received by the visited network operator or home network operator for the origination and transmission of regulated roaming SMS messages within the Union in the relevant period by the total number of such SMS messages originated and transmitted on behalf of the relevant roaming provider or home network operator within that period.

4. The visited network operator shall not levy any charge on a roaming customer's roaming provider or home network operator, separate from the charge referred to in paragraph 1, for the termination of a regulated roaming SMS message sent to a roaming customer while roaming on its visited network.

▼ M1**▼ B***Article 11***Technical characteristics of regulated roaming SMS messages**

No roaming provider, domestic provider, home network operator or visited network operator shall alter the technical characteristics of regulated roaming SMS messages in such a way as to make them differ from the technical characteristics of SMS messages provided within its domestic market.

*Article 12***Wholesale charges for regulated data roaming services****▼ M2**

1. With effect from 15 June 2017, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR 7,70 per gigabyte of

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data transmitted. That maximum wholesale charge shall decrease to EUR 6,00 per gigabyte on 1 January 2018, to EUR 4,50 per gigabyte on 1 January 2019, to EUR 3,50 per gigabyte on 1 January 2020, to EUR 3,00 per gigabyte on 1 January 2021 and to EUR 2,50 per gigabyte on 1 January 2022. It shall, without prejudice to Article 19, remain at EUR 2,50 per gigabyte of data transmitted until 30 June 2022.

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2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before 30 June 2022.

3. The average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale revenue received by the visited network or home network operator for the provision of regulated data roaming services in the relevant period by the total number of megabytes of data actually consumed by the provision of those services within that period, aggregated on a per-kilobyte basis on behalf of the relevant roaming provider or home network operator within that period.

▼ M1**▼ B***Article 14***Transparency of retail charges for roaming calls and SMS messages**

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

▼ M1

That basic personalised pricing information shall be expressed in the currency of the home bill provided by the customer's domestic provider and shall include information on:

- (a) any fair use policy that the roaming customer is subject to within the Union and the surcharges which apply in excess of any limits under that fair use policy; and
- (b) any surcharge applied in accordance with Article 6c.

▼ B

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information and information on the possibility of accessing emergency services by dialling the European emergency number 112 free of charge.

▼ B

On the occasion of each message, a customer shall have the opportunity to give notice to the roaming provider, free of charge and in an easy manner, that he does not require the automatic Message Service. A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the roaming provider to provide the service again.

Roaming providers shall provide blind or partially-sighted customers with the basic personalised pricing information referred to in the first subparagraph automatically, by voice call, free of charge, if they so request.

▼ MI

The first, second, fourth and fifth subparagraphs, with the exception of the reference to the fair use policy and the surcharge applied in accordance with Article 6c, shall also apply to voice and SMS roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

▼ B

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, and irrespective of their location within the Union, more detailed personalised pricing information on the roaming charges that apply in the visited network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the roaming provider. Obligations provided for in paragraph 1 shall not apply to devices which do not support SMS functionality.

▼ MI

2a. The roaming provider shall send a notification to the roaming customer when the applicable fair use volume of regulated voice, or SMS, roaming services is fully consumed or any usage threshold applied in accordance with Article 6c is reached. That notification shall indicate the surcharge that will be applied to any additional consumption of regulated voice, or SMS, roaming services by the roaming customer. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the roaming provider to provide the service again.

3. Roaming providers shall provide all customers with full information on applicable roaming charges, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Roaming providers shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff.

▼ B

4. Roaming providers shall make available information to their customers on how to avoid inadvertent roaming in border regions. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State.

▼B*Article 15***Transparency and safeguard mechanisms for retail data roaming services**

1. Roaming providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services, in ways which facilitate customers' understanding of the financial consequences of such use and permit them to monitor and control their expenditure on regulated data roaming services in accordance with paragraphs 2 and 3.

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

▼M1

2. An automatic message from the roaming provider shall inform the roaming customer that the latter is using regulated data roaming services, and provide basic personalised tariff information on the charges (in the currency of the home bill provided by the customer's domestic provider) applicable to the provision of regulated data roaming services to that roaming customer in the Member State concerned, except where the customer has notified the roaming provider that he does not require that information.

That basic personalised tariff information shall include information on:

- (a) any fair use policy that the roaming customer is subject to within the Union and the surcharges which apply in excess of any limits under that fair use policy; and
- (b) any surcharge applied in accordance with Article 6c.

The information shall be delivered to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a Member State other than that of his domestic provider and initiates for the first time a data roaming service in that particular Member State. It shall be provided free of charge at the moment the roaming customer initiates a regulated data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

A customer who has notified his roaming provider that he does not require the automatic tariff information shall have the right at any time and free of charge to require the roaming provider to provide this service again.

2a. The roaming provider shall send a notification when the applicable fair use volume of regulated data roaming service is fully consumed or any usage threshold applied in accordance with Article 6c is reached. That notification shall indicate the surcharge that will be

▼ M1

applied to any additional consumption of regulated data roaming services by the roaming customer. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the roaming provider to provide the service again.

3. Each roaming provider shall grant to all their roaming customers the opportunity to opt deliberately and free of charge for a facility which provides in a timely manner information on the accumulated consumption expressed in volume or in the currency in which the roaming customer is billed for regulated data roaming services and which guarantees that, without the customer's explicit consent, the accumulated expenditure for regulated data roaming services over a specified period of use, excluding MMS billed on a per-unit basis, does not exceed a specified financial limit.

▼ B

To this end, the roaming provider shall make available one or more maximum financial limits for specified periods of use, provided that the customer is informed in advance of the corresponding volume amounts. One of those limits (the default financial limit) shall be close to, but not exceed, EUR 50 of outstanding charges per monthly billing period (excluding VAT).

Alternatively, the roaming provider may establish limits expressed in volume, provided that the customer is informed in advance of the corresponding financial amounts. One of those limits (the default volume limit) shall have a corresponding financial amount not exceeding EUR 50 of outstanding charges per monthly billing period (excluding VAT).

In addition, the roaming provider may offer to its roaming customers other limits with different, that is, higher or lower, maximum monthly financial limits.

The default limits referred to in the second and third subparagraphs shall be applicable to all customers who have not opted for another limit.

Each roaming provider shall also ensure that an appropriate notification is sent to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80 % of the agreed financial or volume limit. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the provider to provide the service again.

When the financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile device. That notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the roaming provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

▼ B

Whenever a roaming customer requests to opt for or to remove a financial or volume limit facility, the change shall be made within one working day of receipt of the request, shall be free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.

4. Paragraphs 2 and 3 shall not apply to machine-to-machine devices that use mobile data communication.

5. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State. This shall include informing customers on how to avoid inadvertent roaming in border regions.

▼ M1

6. This Article, with the exception of paragraph 5, of the second subparagraph of paragraph 2 and of paragraph 2a, and subject to the second and third subparagraph of this paragraph, shall also apply to data roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

▼ B

Where the customer opts for the facility referred to in the first subparagraph of paragraph 3, the requirements provided in paragraph 3 shall not apply if the visited network operator in the visited country outside the Union does not allow the roaming provider to monitor its customers' usage on a real-time basis.

In such a case the customer shall be notified by an SMS message when entering such a country, without undue delay and free of charge, that information on accumulated consumption and the guarantee not to exceed a specified financial limit are not available.

*Article 16***Supervision and enforcement**

1. National regulatory authorities shall monitor and supervise compliance with this Regulation within their territory.

▼ M1

National regulatory authorities shall strictly monitor and supervise roaming providers availing themselves of Article 6b, 6c and 6e(3).

▼ M2

2. National regulatory authorities and, where relevant, BEREC shall make up-to-date information on the application of this Regulation, in particular Articles 6a, 6b, 6c, 6e, 7, 9, and 12, publicly available in a manner that enables interested parties to have easy access to it.

▼ B

3. National regulatory authorities shall, in preparation for the review provided for in Article 19, monitor developments in wholesale and retail charges for the provision to roaming customers of voice and data communications services, including SMS and MMS, including in the outermost regions referred to in Article 349 of the Treaty on the Functioning of the European Union. National regulatory authorities shall also

▼ B

be alert to the particular case of inadvertent roaming in the border regions of neighbouring Member States and monitor whether traffic-steering techniques are used to the disadvantage of customers.

National regulatory authorities shall monitor and collect information on inadvertent roaming and take appropriate measures.

4. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and in accordance with time limits and level of detail required by the national regulatory authority.

▼ M2

4a. Where a national regulatory authority considers information to be confidential in accordance with Union and national rules on business confidentiality, the Commission, BEREC and any other national regulatory authorities concerned shall ensure such confidentiality. Business confidentiality shall not prevent the timely sharing of information between the national regulatory authority, the Commission, BEREC and any other national regulatory authorities concerned for the purposes of reviewing, monitoring and supervising the application of this Regulation.

▼ B

5. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation. In particular, they shall, where necessary, make use of the powers under Article 5 of the Access Directive to ensure adequate access and interconnection in order to guarantee the end-to-end connectivity and interoperability of roaming services, for example where customers are unable to exchange regulated roaming SMS messages with customers of a terrestrial public mobile communications network in another Member State as a result of the absence of an agreement enabling the delivery of those messages.

6. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it shall have the power to require the immediate cessation of such a breach.

*Article 17***Dispute resolution**

1. In the event of a dispute in connection with the obligations laid down in this Regulation between undertakings providing electronic communications networks or services in a Member State, the dispute resolution procedures laid down in Articles 20 and 21 of the Framework Directive shall apply.

▼ M2

Disputes between visited network operators and other operators on rates applied to inputs necessary for the provision of regulated wholesale roaming services may be referred to the competent national regulatory authority or authorities pursuant to Article 20 or 21 of the Framework Directive. In such a case, the competent national regulatory authority or

▼M2

authorities may consult BEREC about the action to be taken in accordance with the Framework Directive, the Specific Directives or this Regulation to resolve the dispute. Where BEREC has been consulted, the competent national regulatory authority or authorities shall await BEREC's opinion before taking action to resolve the dispute.

▼B

2. In the event of an unresolved dispute involving a consumer or end-user and concerning an issue falling within the scope of this Regulation, the Member States shall ensure that the out-of-court dispute resolution procedures laid down in Article 34 of the Universal Service Directive are available.

*Article 18***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 30 June 2013 and shall notify it without delay of any subsequent amendment affecting them.

▼M1*Article 19***Review**

1. By 29 November 2015, the Commission shall initiate a review of the wholesale roaming market with a view to assessing measures necessary to enable abolition of retail roaming surcharges by 15 June 2017. The Commission shall review, inter alia, the degree of competition in national wholesale markets, and in particular shall assess the level of wholesale costs incurred and wholesale charges applied, and the competitive situation of operators with limited geographic scope, including the effects of commercial agreements on competition as well as the ability of operators to take advantage of economies of scale. The Commission shall also assess the developments in competition in the retail roaming markets and any observable risks of distortion of competition and investment incentives in domestic and visited markets. In assessing measures necessary to enable the abolition of retail roaming surcharges, the Commission shall take into account the need to ensure that the visited network operators are able to recover all costs of providing regulated wholesale roaming services, including joint and common costs. The Commission shall also take into account the need to prevent permanent roaming or anomalous or abusive use of wholesale roaming access for purposes other than the provision of regulated roaming services to roaming providers' customers while the latter are periodically travelling within the Union.

2. By 15 June 2016, the Commission shall submit a report to the European Parliament and to the Council on the findings of the review referred to in paragraph 1.

That report shall be accompanied by an appropriate legislative proposal preceded by a public consultation, to amend the wholesale charges for regulated roaming services set out in this Regulation or to provide for another solution to address the issues identified at wholesale level with a view to abolishing retail roaming surcharges by 15 June 2017.

▼ M2

3. In addition, the Commission shall, by 15 December 2018, submit to the European Parliament and to the Council an interim report summarising the effects of the abolition of retail roaming surcharges, taking into account any relevant BEREC report. The Commission shall subsequently, after consulting BEREC, submit biennial reports to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal to amend the maximum wholesale charges for regulated roaming services laid down in this Regulation. The first such report shall be submitted by 15 December 2019.

Those biennial reports shall include, inter alia, an assessment of:

- (a) the availability and quality of services, including those which are an alternative to regulated retail voice, SMS and data roaming services, in particular in the light of technological developments;
- (b) the degree of competition in both the retail and wholesale roaming markets, in particular the competitive situation of small, independent or newly started operators, and MVNOs, including the competition effects of commercial agreements and the degree of interconnection between operators;
- (c) the extent to which the implementation of the structural measures provided for in Articles 3 and 4, and, in particular, on the basis of the information provided by the national regulatory authorities, of the procedure for prior authorisation laid down in Article 3(6), has produced results in the development of competition in the internal market for regulated roaming services;
- (d) the evolution of the retail tariff plans available;
- (e) changes in data consumption patterns for both domestic and roaming services;
- (f) the ability of home network operators to sustain their domestic charging model and the extent to which exceptional retail roaming surcharges have been authorised pursuant to Article 6c;
- (g) the ability of visited network operators to recover the efficiently incurred costs of providing regulated wholesale roaming services;
- (h) the impact of the application of fair use policies by operators in accordance with Article 6d, including the identification of any inconsistencies in the application and implementation of such fair use policies.

4. In order to assess competitive developments in the Union-wide roaming markets, BEREC shall collect data regularly from national regulatory authorities on developments in retail and wholesale charges for regulated voice, SMS and data roaming services, including wholesale charges applied for balanced and unbalanced roaming traffic respectively. It shall also collect data on the wholesale roaming agreements not subject to the maximum wholesale roaming charges provided for in Articles 7, 9 or 12 and on the implementation of

▼ M2

contractual measures at wholesale level aiming to prevent permanent roaming or anomalous or abusive use of wholesale roaming access for purposes other than the provision of regulated roaming services to roaming providers' customers while the latter are periodically travelling within the Union.

Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

On the basis of data collected, BEREC shall report regularly on the evolution of pricing and consumption patterns in the Member States both for domestic and roaming services, the evolution of actual wholesale roaming rates for unbalanced traffic between providers of roaming services, and on the relationship between retail prices, wholesale charges and wholesale costs for roaming services. BEREC shall assess how closely those elements relate to each other.

BEREC shall also collect information annually from national regulatory authorities on transparency and comparability of different tariffs offered by operators to their customers. The Commission shall make those data and findings public.

▼ B*Article 20***Notification requirements**

Member States shall notify to the Commission the identity of the national regulatory authorities responsible for carrying out tasks under this Regulation.

*Article 21***Repeal**

Regulation (EC) No 717/2007 is repealed in accordance with Annex I with effect from 1 July 2012.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 22***Entry into force and expiry**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and its provisions shall apply from that day save as otherwise provided for in specific Articles.

It shall expire on 30 June 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

▼B

ANNEX I

Repealed Regulation with its amendment

(referred to in Article 21)

Regulation (EC) No 717/2007 of the European Parliament and of the Council (OJ L 171, 29.6.2007, p. 32).

Regulation (EC) No 544/2009 of the European Parliament and of the Council (OJ L 167, 29.6.2009, p. 12). only Article 1



ANNEX II

Correlation Table

Regulation (EC) No 717/2007	This Regulation
Article 1	Article 1
—	Article 1(2)
Article 1(2)	Article 1(3)
Article 1(3)	Article 1(4)
Article 1(4) first subparagraph, first sentence	Article 1(5)
Article 1(4) first subparagraph, second sentence	Article 1(6) first subparagraph Article 1(7) first subparagraph
Article 1(4) second subparagraph, first sentence	Article 1(6) second subparagraph, first sentence Article 1(7) second subparagraph, first sentence
Article 1(4) second subparagraph, second sentence	Article 1(6) second subparagraph, second and third sentences Article 1(7) second subparagraph, second and third sentences
Article 2(1)	Article 2(1)
Article 2(2), introductory words	Article 2(2), introductory words
Article 2(2), point (a)	Article 2(2), point (i)
Article 2(2), point (b)	Article 2(2), point (a)
—	Article 2(2), point (b)
—	Article 2(2), point (c)
Article 2(2), point (c)	Article 2(2), point (d)
Article 2(2), point (g)	Article 2(2), point (e)
Article 2(2), point (d)	Article 2(2), point (f)
Article 2(2), point (f)	Article 2(2), point (g)
Article 2(2), point (e)	Article 2(2), point (h)
Article 2(2), point (i)	Article 2(2), point (j)
Article 2(2), point (j)	Article 2(2), point (k)
Article 2(2), point (h)	Article 2(2), point (l)
Article 2(2), point (k)	Article 2(2), point (m)
—	Article 2(2), point (n)
—	Article 2(2), point (o)
—	Article 2(2), point (p)
—	Article 2(2), point (q)

▼B

Regulation (EC) No 717/2007	This Regulation
—	Articles 3, 4, 5 and 6
Article 3(1)	Article 7(1)
Article 3(2)	Article 7(2)
Article 3(3), first subparagraph	—
Article 3(3), second subparagraph	Article 7(3)
Article 4(1)	Article 8(1)
Article 4(2)	Article 8(2)
Article 4(3), first subparagraph	—
Article 4(3), second subparagraph	Article 8(3)
Article 4(3), third subparagraph	Article 8(4)
Article 4(4)	Article 8(5)
Article 4a	Article 9
Article 4b	Article 10
Article 4b(7)	—
Article 4c	Article 11
—	Article 12
—	Article 13
Article 6(1) first to fifth subparagraphs	Article 14(1) first to fifth subparagraphs
—	Article 14(1) sixth subparagraph
Article 6(2)	Article 14(2)
Article 6(3) first and second subparagraphs	Article 14(3) first and second subparagraphs
—	Article 14(3) third subparagraph
—	Article 14(4)
Article 6a	Article 15
—	Article 15(4)
—	Article 15(5)
—	Article 15(6)
Article 6a(4)	—
Article 7	Article 16
—	Article 16(3) second subparagraph
Article 8	Article 17

▼B

Regulation (EC) No 717/2007	This Regulation
Article 9	Article 18
Article 10	—
Article 11(1) introductory words	Article 19(1) introductory words
—	Article 19(1), points (a) and (b)
Article 11(1) first subparagraph, first to fourth indent	Article 19(1), points (c) to (f)
—	Article 19(1), points (g) and (h)
Article 11(1) second subparagraph	—
—	Article 19(2)
Article 11(2)	Article 19(3)
—	Article 19(4)
Article 12	Article 20
—	Article 21
Article 13	Article 22