



Brussels, **XXX**
[...](2021) **XXX** draft

COMMISSION IMPLEMENTING DECISION

of **XXX**

amending Implementing Decisions C(2012) 9432 and C(2014)4493 as regards certain projects under the NER 300 funding programme, in particular those affected by the Covid-19 pandemic

only Estonian, French, Greek, and Croatian versions are authentic

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THE EUROPEAN COMMISSION,

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

Having regard to Commission Decision 2010/670/EU of 3 November 2010 laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO₂ as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council¹, and in particular Article 5(5) thereof,

After consulting the Climate Change Committee,

Whereas:

- (1) Pursuant to Articles 5 to 9 of Commission Decision 2010/670/EU, the Commission published a first and second call for proposals under the NER 300 funding programme covering the proceeds of 300 million allowances in November 2010 and April 2013, followed by a selection procedure and the adoption of two award decisions: Implementing Decision C(2012) 9432 for 22 projects² and Implementing Decision C(2014) 4493 for 19 projects³ (hereinafter: ‘Award Decisions’).
- (2) The COVID-19 pandemic has had a negative impact on the sponsors of six projects which had been awarded the funding under the NER 300 funding programme. In particular, the COVID-19 pandemic has caused serious disruptions to the supply chains of goods and services, which are critical for implementation of the projects. As a result, the project sponsors were not able to, or they suffered delays in securing deliveries of the necessary equipment, completing its installation on-site, or carrying out the service works. In addition, some project sponsors encountered difficulties in completion of the relevant administrative procedures and obtaining the necessary permits or arranging complementary project financing. In consequence, they had to postpone the purchase of the equipment and to delay its installation. The disruptions are of transitory nature. They started to manifest themselves as early as 1 March 2020 and they are likely to last until at least 1 March 2021. The events linked to the COVID-19 pandemic constitute *force majeure* circumstances since they are beyond the control of the project sponsors who are facing considerable difficulties in carrying

¹ OJ L 290, 6.11.2010, p. 39.

² Commission Implementing Decision C(2012) 9432 of 18.12.2012 Award Decision under the first call for proposals of the NER 300 funding programme.

³ Commission Implementing Decision C(2014) 4493 of 8.7.2014 Award Decision under the second call for proposals of the NER 300 funding programme.

out the necessary preparations for the entry into operation of the projects or implementation of the projects which have already entered into operation.

- (3) In the period from July 2020 to September 2020, in accordance with the procedure provided for in point 5 of Annex 2 to each Award Decision, five Member States proposed to the Commission changes to six awarded projects of innovative renewable energy technologies to address the consequences of Covid-19 outbreak. Those changes relate either to postponing the date of the entry into operation of the projects in preparation or suspension of the projects already being implemented. The Commission examined the notifications of the Member States and the accompanying documentation compiled by the project sponsors. Where necessary, the Commission requested from the project sponsors additional clarifications or documents. On the basis of the notifications received and the complementary information and documents obtained from the project sponsors, the Commission concluded that the proposed changes can be accepted. For some projects, the Commission adjusted the timelines proposed by the Member States and the project sponsors, as justified by individual circumstances of each project.
- (4) In order to counteract the negative effects of the COVID-19 pandemic on the awarded projects, the Award Decisions should be modified. First, the date of entry into operation of four projects in preparation should be postponed, in compliance with the third subparagraph of Article 11(1) of Commission Decision 2010/670/EU. This means that because the date of entry into operation originally set for each of those projects has already been automatically postponed by one year, the new date set in the present Decision cannot be further postponed. Second, the long stop date of four projects in preparation and two already ongoing projects should be postponed, in compliance with Article 11(4) of Commission Decision 2010/670/EU. As regards the four projects in preparation, this means that the new long stop date set in the present Decision is calculated as five years from the new date of entry into operation of those projects. As regards the two ongoing projects, this means that the new long stop date set in the present Decision is calculated as five years from the date on which those projects entered into operation plus the period of suspension of operation of the project. In the cases where the long stop date is changed due to suspension of operation of the project, the funding cannot be disbursed in relation to the period of suspension, as no energy has been produced in that period, due to the *force majeure* circumstances.
- (5) In November 2020, in accordance with the procedure provided for in point 5 of Annex 2 to Implementing Decision C(2014) 4493, one Member State notified the Commission that the awarded upfront funding of the project would not be needed. The reference to the upfront funding should be deleted from Annex 1b to that Decision, and the funding rate adjusted accordingly.
- (6) In January and May 2020, in accordance with the procedure provided for in point 3 of Annex 2 to each of the Award Decisions, two Member States notified the Commission about project failures. Pursuant to Article 11(1) of Decision 2010/670/EU, the Award Decision ceases to have legal effects retroactively with regard to project failures. For reasons of legal certainty, the failed projects should however be deleted from the list of projects in Annex 1a to Implementing Decision C(2012) 9432 and Annex 1b to Implementing Decision C(2014) 4493.
- (7) The Award Decisions should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex 1a to Implementing Decision C(2012) 9432 is replaced by Annex 1a to this Decision.
Annex 1b to Implementing Decision C(2014) 4493 is replaced by Annex 1b to this Decision.

Article 2

This Decision is addressed to the Republic of Estonia, the Hellenic Republic, the French Republic, the Republic of Croatia and the Republic of Cyprus.

Done at Brussels,

For the Commission

Frans TIMMERMANS

Vice-President