

**REGULATION (EU) 2019/1149 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 20 June 2019**

**establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344**

**(Text with relevance for the EEA and for Switzerland)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 46 and 48 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 opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) The freedom of movement for workers, the freedom of establishment and the freedom to provide services are fundamental principles of the internal market of the Union, enshrined in the Treaty on the Functioning of the European Union (TFEU).
- (2) Pursuant to Article 3 of the Treaty on European Union (TEU), the Union is to work for a highly competitive social market economy, aiming at full employment and social progress, and to promote social justice and protection, equality between women and men, solidarity between generations and combatting discrimination. Pursuant to Article 9 TFEU, the Union, in defining and implementing its policies and activities, is to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and the promotion of a high level of education, training and the protection of human health.
- (3) The European Pillar of Social Rights was the subject of a joint proclamation by the European Parliament, the Council and the Commission at the Social Summit for Fair Jobs and Growth, in Gothenburg on 17 November 2017. That Summit emphasised the need to put people first in order to further develop the social dimension of the Union, and to promote convergence through efforts at all levels, as confirmed in the conclusions of the European Council following its meeting on 14 and 15 December 2017.
- (4) In their Joint Declaration on the EU's legislative priorities for 2018 to 2019, the European Parliament, the Council and the Commission committed themselves to taking action to reinforce the social dimension of the Union, by working on improving the coordination of social security systems, by protecting workers from health risks in the workplace, by ensuring fair treatment for all in the Union labour market through modernised rules on posting of workers, and by further improving cross-border enforcement of Union law.

<sup>(1)</sup> OJ C 440, 6.12.2018, p. 128.

<sup>(2)</sup> OJ C 461, 21.12.2018, p. 16.

<sup>(3)</sup> Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 13 June 2019.

- (5) In order to protect the rights of mobile workers and to foster fair competition between companies, in particular small and medium-sized enterprises (SMEs), it is crucial to improve the cross-border enforcement of Union law in the area of labour mobility and to tackle abuse.
- (6) A European Labour Authority (the 'Authority') should be established in order to help strengthen fairness and trust in the internal market. The Authority's objectives should be clearly defined, with a strong focus on a limited number of tasks, in order to ensure that the means available are used as efficiently as possible in areas where the Authority can provide the greatest added value. To that end, the Authority should assist the Member States and the Commission in strengthening the access to information, should support compliance and cooperation between the Member States in the consistent, efficient and effective application and enforcement of the Union law related to labour mobility across the Union, and the coordination of social security systems within the Union, and should mediate and facilitate solutions in the case of disputes.
- (7) Improving access to information for individuals and employers, in particular SMEs, about their rights and obligations in the areas of labour mobility, the free movement of services and social security coordination, is essential to allowing them to benefit from the full potential of the internal market.
- (8) The Authority should carry out its activities in the areas of labour mobility across the Union and social security coordination, including the freedom of movement for workers, the posting of workers, and highly mobile services. It should also enhance cooperation between Member States in tackling undeclared work, and other situations that put at risk the proper functioning of the internal market, such as letter-box entities and bogus self-employment, without prejudice to the competence of Member States to decide on national measures. Where the Authority, in the course of carrying out its activities, becomes aware of suspected irregularities in areas of Union law, such as breaches of working conditions or health and safety rules, or labour exploitation, it should be able to report them to, and cooperate on those matters with, the national authorities of the Member States concerned and, where appropriate, the Commission and other competent Union bodies.
- (9) The scope of activities of the Authority should cover specific Union legal acts listed in this Regulation, including amendments thereto. That list should be extended in the case of further Union legal acts being adopted in the field of labour mobility across the Union.
- (10) The Authority should proactively contribute to Union and national efforts in the area of labour mobility across the Union and social security coordination, by carrying out its tasks in full cooperation with the Union institutions and bodies and the Member States, while avoiding any duplication of work and promoting synergy and complementarity.
- (11) The Authority should contribute to facilitating the application and enforcement of Union law within the scope of this Regulation, and to supporting the enforcement of those provisions implemented through universally applicable collective agreements in accordance with the practices of Member States. To that end, the Authority should set up a single Union website for the purpose of accessing all relevant Union websites, and national websites established in accordance with Directive 2014/67/EU of the European Parliament and of the Council<sup>(4)</sup> and Directive 2014/54/EU of the European Parliament and of the Council<sup>(5)</sup>. Without prejudice to the tasks and activities of the Administrative Commission for the Coordination of Social Security Systems established by Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>(6)</sup> (the 'Administrative Commission'), the Authority should also assist in the coordination of social security systems.

<sup>(4)</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (the IMI Regulation) (OJ L 159, 28.05.2014, p. 11).

<sup>(5)</sup> Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (OJ L 128, 30.4.2014, p. 8).

<sup>(6)</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

- (12) In certain instances, sector-specific Union law has been adopted in order to respond to specific needs in particular sectors, such as in the area of international transport, including road, rail, maritime transport, inland waterways and aviation. Within the scope of this Regulation, the Authority should also deal with the cross-border labour mobility and social security aspects of the application of such sector-specific Union law. The scope of the Authority's activities, in particular whether its activities should be extended to further Union legal acts that cover sector-specific needs in the area of international transport, should be subject to periodic evaluation and, if appropriate, review.
- (13) The Authority's activities should cover individuals who are subject to the Union law within the scope of this Regulation, including workers, self-employed persons and jobseekers. Such individuals should include citizens of the Union and third-country nationals who are legally resident in the Union, such as posted workers, intra-corporate transferees or long-term residents, as well as their family members, in accordance with Union law regulating their mobility within the Union.
- (14) The establishment of the Authority should not create new rights or obligations for individuals or employers, including economic operators or not-for-profit organisations as the activities of the Authority should envisage such individuals and employers to the extent that they are covered by the Union law within the scope of this Regulation. Increased cooperation in the area of enforcement should neither place an excessive administrative burden on mobile workers or employers, in particular SMEs, nor discourage labour mobility.
- (15) To ensure that individuals and employers are able to reap the benefits of a fair and effective internal market, the Authority should support Member States in promoting opportunities for labour mobility or the provision of services and recruitment anywhere within the Union, including opportunities for access to cross-border mobility services, such as the cross-border matching of jobs, traineeships and apprenticeships and mobility schemes such as 'Your first EURES job' or ErasmusPRO. The Authority should also contribute to improving transparency of information, including on rights and obligations provided for in Union law, and access to services to individuals and employers, in cooperation with other Union information services, such as Your Europe Advice, and taking full advantage and ensuring consistency with the Your Europe portal, which is to form the backbone of the single digital gateway established by Regulation (EU) 2018/1724 of the European Parliament and of the Council<sup>(7)</sup>.
- (16) To that end, the Authority should cooperate in other relevant Union initiatives and networks, in particular in the European Network of Public Employment Services, the European Enterprise Network, the Border Focal Point SOLVIT, and the Senior Labour Inspectors' Committee, as well as in relevant national services such as the bodies to promote equal treatment and to support Union workers and members of their family that are designated by Member States pursuant to Directive 2014/54/EU. The Authority should replace the Commission in managing the European Coordination Office of the European network of employment services (EURES), established by Regulation (EU) 2016/589 of the European Parliament and of the Council<sup>(8)</sup>, including establishing user needs and business requirements for the effectiveness of the EURES portal and related information technology (IT) services, but excluding the provision of IT and the operation and development of IT infrastructure, which will continue to be ensured by the Commission.
- (17) With a view to ensuring the fair, simple and effective application and enforcement of Union law, the Authority should support cooperation and the timely exchange of information between Member States. Together with other staff, National Liaison Officers working within the Authority should support Member States' compliance with cooperation obligations, speed up exchanges between them through procedures dedicated to reducing delays, and ensure links with other national liaison offices, bodies, and contact points established under Union law. The Authority should encourage the use of innovative approaches to effective and efficient cross-border cooperation, including electronic data exchange tools such as the Electronic Exchange of Social Security Information (EESSI) system and the Internal Market Information (IMI) system, and should contribute to further digitalising procedures and improving IT tools used for message exchange between national authorities.

<sup>(7)</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

<sup>(8)</sup> Regulation (EU) 2016/589 of the European Parliament and the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 (OJ L 107, 22.4.2016, p. 1).

- (18) To increase Member States' capacity to ensure protection of persons exercising their right to free movement and tackle irregularities with a cross-border dimension in relation to Union law within the scope of this Regulation, the Authority should support the national authorities in carrying out concerted and joint inspections, including by facilitating the implementation of inspections in accordance with Article 10 of Directive 2014/67/EU. Those inspections should take place at the request of Member States or upon their agreement to the Authority's suggestion. The Authority should provide strategic, logistical, and technical support to Member States participating in the concerted or joint inspections in full respect of the confidentiality requirements. Inspections should be carried out in agreement with the Member States concerned and should take place within the legal framework of national law or practice of the Member States in which they take place. Member States should follow up on the outcomes of the concerted and joint inspections according to national law or practice.
- (19) Concerted and joint inspections should not replace or undermine national competences. National authorities should also be fully associated in the process of such inspections and should have full authority. Where trade unions are in charge of inspections at national level, concerted and joint inspections should take place following the agreement of, and in cooperation with, the relevant social partners.
- (20) In order to keep track of emerging trends, challenges, or loopholes in the areas of labour mobility and social security coordination, the Authority should develop, in cooperation with Member States and, where appropriate, the social partners, an analytical and risk assessment capacity. This should involve carrying out labour market analyses and studies, as well as peer reviews. The Authority should monitor potential imbalances in terms of skills and cross-border labour flows, including their possible impact on territorial cohesion. The Authority should also support the risk assessment referred to in Article 10 of Directive 2014/67/EU. The Authority should ensure synergies and complementarity with Union agencies, services or networks. This should include seeking input from SOLVIT and similar services on sector-specific challenges and recurring problems concerning labour mobility within the scope of this Regulation. The Authority should also facilitate and streamline data collection activities provided for by Union law within the scope of this Regulation. This does not entail the creation of new reporting obligations for Member States.
- (21) To strengthen the capacity of national authorities in the areas of labour mobility and social security coordination and improve consistency in the application of Union law within the scope of this Regulation, the Authority should provide operational assistance to national authorities, including developing practical guidelines, establishing training and peer learning programmes, including for labour inspectorates to address challenges such as bogus self-employment and abuses of posting, promoting mutual assistance projects, facilitating staff exchanges such as those referred to in Article 8 of Directive 2014/67/EU, and supporting Member States in organising awareness-raising campaigns informing individuals and employers of their rights and obligations. The Authority should promote the exchange, dissemination and uptake of good practices and knowledge, and promote mutual understanding of different national systems and practices.
- (22) The Authority should develop synergies between its task to ensure fair labour mobility and tackling undeclared work. For the purposes of this Regulation, 'tackling' undeclared work means preventing, deterring and combating undeclared work as well as promoting the declaration thereof. Building on the knowledge and the working methods of the European Platform to enhance cooperation in tackling undeclared work, established by Decision (EU) 2016/344 of the European Parliament and the Council<sup>(9)</sup>, the Authority should set up, with the involvement of the social partners, a permanent working group also named Platform to enhance cooperation in tackling undeclared work. The Authority should ensure a smooth transition of the existing activities of the platform established by Decision (EU) 2016/344 to the working group within the Authority.
- (23) The Authority should have a mediation role. Member States should be able to refer disputed individual cases to the Authority for mediation after failing to solve them by means of direct contact and dialogue. Mediation should only concern disputes between Member States, while individuals and employers facing difficulties with exercising their Union rights should continue to have at their disposal the national and Union services dedicated to dealing with such cases, such as the SOLVIT network, to which the Authority should refer such cases. The SOLVIT network should also be able to refer to the Authority for its consideration cases in which the problem cannot be solved due to differences between national administrations. The Authority should carry out its mediation role without prejudice to the competence of the Court of Justice of the European Union (the 'Court of Justice') concerning the interpretation of Union law and without prejudice to the competence of the Administrative Commission.

<sup>(9)</sup> Decision (EU) 2016/344 of the European Parliament and of the Council of 9 March 2016 on establishing a European Platform to enhance cooperation in tackling undeclared work (OJ L 65, 11.3.2016, p. 12).

- (24) The European Interoperability Framework (EIF) offers principles and recommendations on how to improve governance of interoperability activities and public services delivery, establish cross-organisational and cross-border relationships, streamline processes supporting end-to-end digital exchanges, and ensure that both existing and new legislation support interoperability principles. The European Interoperability Reference Architecture (EIRA) is a generic structure, comprising principles and guidelines applying to the implementation of interoperability solutions, referred to in Decision (EU) 2015/2240 of the European Parliament and of the Council<sup>(10)</sup>. Both the EIF and the EIRA should guide and support the Authority when considering interoperability matters.
- (25) The Authority should aim to provide better access to online information and services for Union and national stakeholders and facilitate the exchange of information between them. Therefore, the use of digital tools should be encouraged by the Authority, whenever possible. Besides IT systems and websites, digital tools such as online platforms and databases play an increasingly central role in the cross-border labour mobility market. Thus, such tools are useful to provide easy access to relevant online information and facilitate exchange of information for Union and national stakeholders regarding their cross-border activities.
- (26) The Authority should strive for websites and mobile applications established for the implementation of the tasks laid down in this Regulation to be in accordance with relevant accessibility requirements of the Union. Directive (EU) 2016/2102 of the European Parliament and of the Council<sup>(11)</sup> requires Member States to ensure that their public bodies' websites are accessible in accordance with the principles that they are perceivable, operable, understandable and robust and that they comply with the requirements of that Directive. That Directive does not apply to websites or mobile applications of Union institutions, bodies, offices and agencies. However, the Authority should endeavour to comply with the principles set out in that Directive.
- (27) The Authority should be governed and operated in line with the principles of the Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.
- (28) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men is ensured in all areas, including employment, work and pay. All parties should aim to achieve a balanced representation between women and men on the Management Board and the Stakeholder Group. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together.
- (29) The Member States and the Commission should be represented on a Management Board, in order to ensure the effective functioning of the Authority. The European Parliament as well as cross-industry social partner organisations at Union level, with an equal representation of trade union and employer organisations and with adequate representation of SMEs, may also nominate representatives to the Management Board. The composition of the Management Board, including the selection of its Chair and Deputy-Chair, should respect the principles of gender balance, experience and qualification. In view of the effective and efficient functioning of the Authority, the Management Board, in particular, should adopt an annual work programme, carry out its functions relating to the Authority's budget, adopt the financial rules applicable to the Authority, appoint an Executive Director, and establish procedures for taking decisions relating to the operational tasks of the Authority by the Executive Director. Representatives from third countries that apply the Union rules within the scope of this Regulation, should be able to participate in the meetings of the Management Board as observers.
- (30) In exceptional cases, where necessary to maintain the maximum level of confidentiality, the independent expert appointed by the European Parliament and the representatives of cross-industry social partner organisations at Union level should not participate in deliberations of the Management Board. Such provision should be clearly specified in the rules of procedure of the Management Board and limited to sensitive information regarding individual cases, to ensure that the effective participation of the expert and the representatives in the work of the Management Board is not unduly limited.
- (31) An Executive Director should be appointed to ensure the overall administrative management of the Authority and the implementation of the tasks assigned to the Authority. Other staff members may deputise for the Executive Director where this is deemed to be necessary in order to ensure the day-to-day management of the Authority, in accordance with the internal rules of the Authority, without creating additional managerial positions.

<sup>(10)</sup> Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA<sup>2</sup> programme) as a means for modernising the public sector (OJ L 318, 4.12.2015, p. 1).

<sup>(11)</sup> Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

- (32) Without prejudice to the powers of the Commission, the Management Board and the Executive Director should be independent in the performance of their duties and act in the public interest.
- (33) The Authority should directly rely on the expertise of relevant stakeholders in the areas under the scope of this Regulation through a dedicated Stakeholder Group. The members should be representatives of the Union-level social partners, including recognised Union sectoral social partners representing sectors particularly concerned with labour mobility issues. The Stakeholder Group should receive prior briefing and be able to submit their opinions to the Authority, upon request or on their own initiative. In carrying out its activities, the Stakeholder Group will take due account of the opinions and draw on the expertise of the Advisory Committee for the Coordination of Social Security Systems established by Regulation (EC) No 883/2004 and the Advisory Committee on the Free Movement of Workers established pursuant to Regulation (EU) No 492/2011 of the European Parliament and of the Council <sup>(12)</sup>.
- (34) To guarantee its full autonomy and independence, the Authority should be granted an autonomous budget, with revenue coming from the general budget of the Union, any voluntary financial contribution from the Member States and any contribution from third countries participating in the work of the Authority. In exceptional and duly justified cases it should also be in the position to receive delegation agreements or ad hoc grants, and to charge for publications and any service provided by the Authority.
- (35) The translation services required for the Authority's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). The Authority should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly the Authority's needs and priorities, and create transparent and objective procedures for the translation process.
- (36) Processing of personal data carried out in the context of this Regulation should be conducted in accordance with Regulation (EU) 2016/679 <sup>(13)</sup> or (EU) 2018/1725 <sup>(14)</sup> of the European Parliament and of the Council, as applicable. This includes putting in place appropriate technical and organisational measures to comply with the obligations imposed by those Regulations, in particular measures relating to the lawfulness of the processing, the security of the processing activities, the provision of information and the rights of data subjects.
- (37) In order to ensure the transparent operation of the Authority, Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(15)</sup> should apply to the Authority. The activities of the Authority should be subject to the scrutiny of the European Ombudsman in accordance with Article 228 TFEU.
- (38) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(16)</sup> should apply to the Authority, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF).
- (39) The Authority's host Member State should provide the best possible conditions to ensure the proper functioning of the Authority.
- (40) In order to ensure open and transparent employment conditions and the equal treatment of staff, the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(17)</sup> (referred to as the 'Staff Regulations' and the 'Conditions of Employment', respectively), should apply to the staff and to the Executive Director of the Authority, including the rules of professional secrecy or other equivalent duties of confidentiality.

<sup>(12)</sup> Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

<sup>(13)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(14)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>(15)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(16)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(17)</sup> OJ L 56, 4.3.1968, p. 1.

- (41) Within the framework of their respective competences, the Authority should cooperate with agencies of the Union, in particular those established in the area of employment and social policy, building on their expertise and maximising synergies: the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Centre for the Development of Vocational Training (Cedefop), the European Agency for Safety and Health at Work (EU-OSHA), and the European Training Foundation (ETF), as well as, as regards the fight against organised crime and trafficking in human beings, with the European Union Agency for Law Enforcement Cooperation (Europol) and European Union Agency for Criminal Justice Cooperation (Eurojust). Such cooperation should ensure coordination, promote synergies and avoid any duplication in their activities.
- (42) In the field of social security coordination, the Authority and the Administrative Commission should cooperate closely with the aim of achieving synergies and avoiding any duplication.
- (43) In order to bring an operational dimension to the activities of existing bodies in the areas within the scope of this Regulation, the Authority should carry out the tasks of the Technical Committee on the Free Movement of Workers established pursuant to Regulation (EU) No 492/2011, the Committee of Experts on Posting of Workers set up by Commission Decision 2009/17/EC <sup>(18)</sup>, including the exchange of information on administrative cooperation, the assistance in questions on implementation as well as cross-border enforcement, and the platform established by Decision (EU) 2016/344. Once the Authority is operational, those bodies should cease to exist. The Management Board may decide to set up dedicated working groups or expert panels.
- (44) The Advisory Committee for the Coordination of Social Security Systems and the Advisory Committee on the Free Movement of Workers provide a forum for the consultation of social partners and government representatives at national level. The Authority should contribute to their work and may participate in their meetings.
- (45) In order to reflect the new institutional set-up, Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 should be amended, and Decision (EU) 2016/344 should be repealed once the Authority is operational.
- (46) The Authority should respect the diversity of national industrial relations systems as well as the autonomy of the social partners as explicitly recognised by the TFEU. Taking part in the activities of the Authority is without prejudice to the Member States' competences, obligations and responsibilities under, inter alia, relevant and applicable International Labour Organisation (ILO) conventions, such as Convention No 81 concerning Labour Inspection in Industry and Commerce, and to the Member States' powers to regulate, mediate or monitor national industrial relations, in particular on the exercise of the right to collective bargaining and to take collective action.
- (47) Since the objectives of this Regulation, namely to contribute, within its scope, to ensuring fair labour mobility across the Union and to assist Member States and the Commission in the coordination of social security systems within the Union cannot be sufficiently achieved by the Member States acting in an uncoordinated manner, but can rather, by reason of the cross-border nature of those activities and the need for increased cooperation between Member States, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (48) This Regulation respects the fundamental rights and observes the principles endorsed, in particular, by the Charter of Fundamental Rights of the European Union, as recognised in Article 6 TEU,

<sup>(18)</sup> Commission Decision 2009/17/EC of 19 December 2008 setting up the Committee of Experts on Posting of Workers (OJ L 8, 13.1.2009, p. 26).

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

**Establishment, subject matter and scope**

1. This Regulation establishes the European Labour Authority (the 'Authority').
  
2. The Authority shall assist Member States and the Commission in their effective application and enforcement of Union law related to labour mobility across the Union and the coordination of social security systems within the Union. The Authority shall act within the scope of the Union acts listed in paragraph 4, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.
  
3. This Regulation shall not in any way affect the exercise of fundamental rights as recognised in the Member States and at Union level, including the right or freedom to strike or to take other action covered by the specific industrial relations systems in Member States in accordance with national law or practice. Nor does it affect the right to negotiate, conclude and enforce collective agreements, or to take collective action in accordance with national law or practice.
  
4. The scope of activities of the Authority shall cover the following Union acts, including all future amendments to these acts:
  - (a) Directive 96/71/EC of the European Parliament and of the Council <sup>(19)</sup>;
  
  - (b) Directive 2014/67/EU;
  
  - (c) Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(20)</sup>, including the provisions of Council Regulations (EEC) No 1408/71 <sup>(21)</sup> and (EEC) No 574/72 <sup>(22)</sup> insofar as they are still applicable, Regulation (EU) No 1231/2010 of the European Parliament and of the Council <sup>(23)</sup> and Council Regulation (EC) No 859/2003 <sup>(24)</sup> extending the provisions of Regulations (EEC) No 1408/71 and (EEC) No 574/72 to nationals of third countries who are not already covered by these Regulations solely on the grounds of their nationality;
  
  - (d) Regulation (EU) No 492/2011;

<sup>(19)</sup> Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

<sup>(20)</sup> Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

<sup>(21)</sup> Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 149, 5.7.1971, p. 2).

<sup>(22)</sup> Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons, and to their families moving within the Community (OJ L 74, 27.3.1972, p. 1).

<sup>(23)</sup> Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1).

<sup>(24)</sup> Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality (OJ L 124, 20.5.2003, p. 1).

- (e) Directive 2014/54/EU;
- (f) Regulation (EU) 2016/589;
- (g) Regulation (EC) No 561/2006 of the European Parliament and of the Council <sup>(25)</sup>;
- (h) Directive 2006/22/EC of the European Parliament and of the Council <sup>(26)</sup>;
- (i) Regulation (EC) No 1071/2009 of the European Parliament and of the Council <sup>(27)</sup>.

5. The scope of activities of the Authority shall cover the provisions of this Regulation related to the cooperation between Member States in order to tackle undeclared work.

6. This Regulation shall respect the competences of Member States with regard to the application and enforcement of Union law listed in paragraph 4.

It shall not affect the rights or obligations of individuals or employers granted by Union law or national law or practice, nor the rights and obligations of national authorities deriving thereof, as well as the autonomy of the social partners as recognised by the TFEU.

This Regulation shall be without prejudice to existing bilateral agreements and administrative cooperation arrangements between Member States, in particular those related to concerted and joint inspections.

#### *Article 2*

##### **Objectives**

The objectives of the Authority shall be to contribute to ensuring fair labour mobility across the Union and assist Member States and the Commission in the coordination of social security systems within the Union. To that end, and within the scope pursuant to Article 1, the Authority shall:

- (a) facilitate access to information on rights and obligations regarding labour mobility across the Union as well as to relevant services;
- (b) facilitate and enhance cooperation between Member States in the enforcement of relevant Union law across the Union, including facilitating concerted and joint inspections;
- (c) mediate and facilitate a solution in cases of cross-border disputes between Member States; and
- (d) support cooperation between Member States in tackling undeclared work.

#### *Article 3*

##### **Legal status**

1. The Authority shall be a Union body with legal personality.

<sup>(25)</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

<sup>(26)</sup> Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).

<sup>(27)</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

2. In each Member State, the Authority shall enjoy the most extensive legal capacity accorded to legal persons under their national law. It may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.

## CHAPTER II

### TASKS OF THE AUTHORITY

#### *Article 4*

#### **Tasks of the Authority**

In order to achieve its objectives, the Authority shall carry out the following tasks:

- (a) facilitate access to information and coordinate EURES in accordance with Articles 5 and 6;
- (b) facilitate cooperation and the exchange of information between Member States with a view to the consistent, efficient and effective application and enforcement of relevant Union law, in accordance with Article 7;
- (c) coordinate and support concerted and joint inspections, in accordance with Articles 8 and 9;
- (d) carry out analyses and risk assessment on issues of cross-border labour mobility, in accordance with Article 10;
- (e) support Member States with capacity building regarding the effective application and enforcement of relevant Union law, in accordance with Article 11;
- (f) support Member States in tackling undeclared work, in accordance with Article 12;
- (g) mediate disputes between Member States on the application of relevant Union law, in accordance with Article 13.

#### *Article 5*

#### **Information on labour mobility**

The Authority shall improve the availability, quality and accessibility of information of a general nature offered to individuals, employers and social partner organisations regarding rights and obligations deriving from the Union acts listed in Article 1(4) to facilitate labour mobility across the Union. To that end, the Authority shall:

- (a) contribute to the provision of relevant information on the rights and obligations of individuals in cross-border labour mobility situations, including through a single Union-wide website acting as a single portal for accessing information sources and services at Union and national level in all official languages of the Union established by Regulation (EU) 2018/1724;
- (b) support Member States in the application of Regulation (EU) 2016/589;
- (c) support Member States in complying with the obligations on the access to and dissemination of information relating to the free movement of workers, in particular as laid down in Article 6 of Directive 2014/54/EU and in Article 22 of Regulation (EU) 2016/589, to social security coordination as laid down in Article 76(4) and (5) of Regulation (EC) No 883/2004, and to the posting of workers as laid down in Article 5 of Directive 2014/67/EU, including by means of reference to national information sources such as the single official national websites;

- (d) support Member States in improving the accuracy, completeness and user-friendliness of relevant national information sources and services, in accordance with the quality criteria laid down in Regulation (EU) 2018/1724;
- (e) support Member States in streamlining the provision of information and services to individuals and employers pertaining to cross-border mobility on a voluntary basis;
- (f) facilitate cooperation between the competent bodies designated in accordance with Directive 2014/54/EU to provide information, guidance and assistance to individuals and employers in the area of labour mobility within the internal market.

#### *Article 6*

### **Coordination of EURES**

In order to support Member States in providing services to individuals and employers through EURES, such as cross-border matching of job, traineeship, and apprenticeship vacancies with CVs, and thus facilitating labour mobility across the Union, the Authority shall manage the European Coordination Office of EURES, established under Article 7 of Regulation (EU) 2016/589.

The European Coordination Office shall, under the management of the Authority, fulfil its responsibilities in accordance with Article 8 of Regulation (EU) 2016/589, except for the technical operation and development of the EURES portal and related IT services, which shall continue to be managed by the Commission. The Authority, under the responsibility of the Executive Director as set out in point (n) of Article 22(4) of this Regulation, shall ensure that this activity fully complies with the requirements of the applicable data protection legislation, including the requirement to appoint a Data Protection Officer, in accordance with Article 36 of this Regulation.

#### *Article 7*

### **Cooperation and exchange of information between Member States**

1. The Authority shall facilitate the cooperation and acceleration of exchange of information between Member States and support their effective compliance with cooperation obligations, including on information exchange, as defined in Union law within the scope of this Regulation.

To that end, the Authority shall in particular:

- (a) upon request of one or more Member States, support national authorities in identifying the relevant contact points of national authorities in other Member States;
- (b) upon request of one or more Member States, facilitate the follow-up to requests and information exchanges between national authorities by providing logistical and technical support, including translation and interpretation services, and through exchanges on the status of cases;
- (c) promote, share and contribute to disseminating best practices between Member States;
- (d) upon request of one or more Member States, where relevant, facilitate and support cross-border enforcement procedures relating to penalties and fines, within the scope of this Regulation according to Article 1;
- (e) report to the Commission twice a year about unresolved requests between Member States and consider whether to refer those to mediation in accordance with Article 13(2).

2. Upon request of one or more Member States and in fulfilling its tasks, the Authority shall provide information to support the Member State concerned in the effective application of the Union acts that fall within the Authority's competence.

3. The Authority shall promote the use of electronic tools and procedures for message exchange between national authorities, including the IMI system.

4. The Authority shall encourage the use of innovative approaches to effective and efficient cross-border cooperation, and shall promote the potential use of electronic exchange mechanisms and databases between the Member States to facilitate the access to data in real time and detection of fraud, and may suggest possible improvements in the use of those mechanisms and databases. The Authority shall provide reports to the Commission with a view to the further development of electronic exchange mechanisms and databases.

#### Article 8

##### **Coordination and support of concerted and joint inspections**

1. At the request of one or more Member States, the Authority shall coordinate and support concerted or joint inspections in the areas within the Authority's competence. The Authority may also, on its own initiative, suggest to the authorities of the Member States concerned that they carry out a concerted or joint inspection.

Concerted and joint inspections shall be subject to the agreement of the Member States concerned.

Social partner organisations at national level may bring cases to the attention of the Authority.

2. For the purposes of this Regulation:

(a) concerted inspections are inspections carried out in two or more Member States simultaneously regarding related cases, with each national authority operating in its own territory, and supported, where appropriate, by the staff of the Authority;

(b) joint inspections are inspections carried out in a Member State with the participation of the national authorities of one or more other Member States, and supported, where appropriate, by the staff of the Authority.

3. In accordance with the principle of sincere cooperation, Member States shall endeavour to participate in concerted or joint inspections.

A concerted or joint inspection shall be subject to the prior agreement of all participating Member States, and such agreement shall be notified via National Liaison Officers designated pursuant to Article 32.

In the event that one or more Member States decide not to participate in the concerted or joint inspection, the national authorities of the other Member States shall carry out such an inspection only in the participating Member States. Member States that decide not to participate shall keep information about such an inspection confidential.

4. The Authority shall establish and adopt the modalities to ensure appropriate follow-up where a Member State decides not to participate in a concerted or joint inspection.

In such cases, the Member State concerned shall inform the Authority and the other Member States concerned in writing, including by electronic means, without undue delay of the reasons for its decision and possibly about the measures it plans to take to resolve the case, as well as, once known, about the outcomes of such measures. The Authority may suggest that the Member State which did not participate in a concerted or joint inspection carry out its own inspection on a voluntary basis.

5. Member States and the Authority shall keep information about envisaged inspections confidential with regard to third parties.

#### Article 9

##### **Arrangements for concerted and joint inspections**

1. An agreement to carry out a concerted inspection or a joint inspection between the participating Member States and the Authority shall set out the terms and the conditions for carrying out that inspection, including the scope and purpose

of the inspection and, if relevant, any arrangements with regard to the participation of the staff of the Authority. The agreement may include provisions which enable concerted or joint inspections, once agreed and planned, to take place at short notice. The Authority shall establish a model agreement in accordance with Union law, as well as national law or practice.

2. Concerted and joint inspections shall be carried out in accordance with the law or practice of the Member States in which the inspections take place. Any follow-up to such inspections shall be carried out in accordance with the law or practice of the Member States concerned.

3. Concerted and joint inspections shall take place in an operationally effective manner. To that end, Member States shall, in the inspection agreement, grant officials from another Member State participating in such inspections an appropriate role and status, in accordance with the law or practice of the Member State where the inspection is carried out.

4. The Authority shall provide conceptual, logistical and technical support, and, where appropriate, legal expertise, if requested by the Member States concerned, including translation and interpretation services, to Member States carrying out concerted or joint inspections.

5. Staff of the Authority may attend the inspection as observers, may provide logistical support, and may participate in a concerted or joint inspection with the prior agreement of the Member State on whose territory they will be providing their assistance to the inspection in accordance with the Member State's law or practice.

6. The authority of a Member State that carries out a concerted or joint inspection shall report to the Authority on the outcome of the inspection within that Member State and on the overall operational running of the concerted or joint inspection at the latest six months after the end of the inspection.

7. It shall be possible to use the information collected during concerted or joint inspections as evidence in legal proceedings in the Member States concerned, in accordance with the law or practice of that Member State.

8. Information on concerted and joint inspections coordinated by the Authority, as well as information provided by Member States and by the Authority as referred to in Article 8(2) and (3) shall be included in the reports that are to be submitted to the Management Board twice a year. Such reports shall be sent also to the Stakeholder Group, with sensitive information duly redacted. A yearly report on the inspections supported by the Authority shall be included in the Authority's annual activity report.

9. In the event that the Authority, in the course of concerted or joint inspections, or in the course of any of its activities, becomes aware of suspected irregularities in the application of Union law, it may report those suspected irregularities, where appropriate, to the Member State concerned and to the Commission.

#### *Article 10*

#### **Labour mobility analyses and risk assessment**

1. The Authority shall, in cooperation with Member States and, where appropriate, the social partners, assess risks and carry out analyses regarding labour mobility and social security coordination across the Union. The risk assessment and analytical work shall address topics such as labour market imbalances, sector-specific challenges and recurring problems, and the Authority may also carry out focused in-depth analyses and studies to investigate specific issues. In carrying out its risk assessment and analytical work, the Authority shall, to the extent possible, use relevant and current statistical data available from existing surveys, and ensure complementarity with, and draw on the expertise of Union agencies or services and of national authorities, agencies or services, including in the areas of fraud, exploitation, discrimination, skills forecasting and health and safety at work.

2. The Authority shall organise peer reviews among Member States which agree to participate in order to:

- (a) examine any questions, difficulties and specific issues which might arise concerning the implementation and practical application of Union law within the Authority's competence, as well as its enforcement in practice;
  - (b) strengthen consistency in the provision of services to individuals and businesses;
  - (c) improve the knowledge and mutual understanding of different systems and practices, as well as assess the effectiveness of different policy measures, including prevention and deterrence measures.
3. Where a risk assessment or any other type of analytical work has been completed, the Authority shall report its findings to the Commission, as well as to the Member States concerned directly, outlining possible measures to address identified weaknesses.

The Authority shall also include a summary of its findings in its annual reports to the European Parliament and to the Commission.

4. The Authority shall, where appropriate, collect statistical data compiled and provided by Member States in the areas of Union law within the Authority's competence. In doing so, the Authority shall seek to streamline current data collection activities in those areas to avoid duplication of data collection. Where relevant, Article 15 shall apply. The Authority shall liaise with the Commission (Eurostat) and share the results of its data collection activities, where appropriate.

#### *Article 11*

#### **Support to capacity building**

The Authority shall support Member States with capacity building aimed at promoting the consistent enforcement of the Union law in all areas listed in Article 1. The Authority shall, in particular, carry out the following activities:

- (a) in cooperation with national authorities and, where appropriate, the social partners, develop common non-binding guidelines for use by Member States and the social partners, including guidance for inspections in cases with a cross-border dimension, as well as shared definitions and common concepts, building on relevant work at national and Union level;
- (b) promote and support mutual assistance, either in the form of peer-to-peer or group activities, as well as staff exchanges and secondment schemes between national authorities;
- (c) promote the exchange and dissemination of experiences and good practices, including examples of cooperation between the relevant national authorities;
- (d) develop sectoral and cross-sectoral training programmes, including for labour inspectorates, and dedicated training material, including through online learning methods;
- (e) promote awareness-raising campaigns, including campaigns to inform individuals and employers, especially SMEs, of their rights and obligations and the opportunities available to them.

#### *Article 12*

#### **European Platform to enhance cooperation in tackling undeclared work**

1. The European Platform to enhance cooperation in tackling undeclared work (the 'Platform') established in accordance with Article 16(2) shall support the activities of the Authority in tackling undeclared work by:

- (a) enhancing cooperation between Member States' relevant authorities and other actors involved in order to tackle more efficiently and effectively undeclared work in its various forms and falsely declared work associated with it, including bogus self-employment;
- (b) improving the capacity of Member States' different relevant authorities and actors to tackle undeclared work with regard to its cross-border aspects; and in this way contributing to a level playing field;
- (c) increasing public awareness of issues relating to undeclared work and of the urgent need for appropriate action as well as encouraging Member States to step up their efforts to tackle undeclared work;
- (d) carrying out the activities listed in the Annex.

2. The Platform shall encourage cooperation between Member States through:

- (a) exchanging best practices and information;
- (b) developing expertise and analysis, while avoiding any duplication;
- (c) encouraging and facilitating innovative approaches to effective and efficient cross-border cooperation and evaluating experiences;
- (d) contributing to a horizontal understanding of matters relating to undeclared work.

3. The Platform shall be composed of:

- (a) a senior representative appointed by each Member State;
- (b) a representative of the Commission;
- (c) a maximum of four representatives of cross-industry social partner organisations at Union level, appointed by those organisations, with an equal representation of trade union and employer organisations.

4. The following stakeholders may attend the meetings of the Platform as observers and their contributions shall be taken into due consideration:

- (a) a maximum of 14 representatives of social partner organisations in sectors with a high incidence of undeclared work, appointed by those organisations, with an equal representation of trade union and employer organisations;
- (b) one representative of each of Eurofound, EU-OSHA and the ILO;
- (c) one representative of each of the third countries in the European Economic Area.

Observers other than those referred to in the first subparagraph may be invited to attend the meetings of the Platform and their contributions shall be taken into due consideration.

The Platform shall be chaired by a representative of the Authority.

### Article 13

#### Mediation between Member States

1. The Authority may facilitate a solution in the case of a dispute between two or more Member States regarding individual cases of application of Union law in areas covered by this Regulation, without prejudice to the powers of the Court of Justice. The purpose of such mediation shall be to reconcile divergent points of view between the Member States that are party to the dispute and to adopt a non-binding opinion.

2. Where a dispute cannot be solved by direct contact and dialogue between the Member States that are party to the dispute, the Authority shall launch a mediation procedure upon request of one or more of the Member States concerned. The Authority may also suggest launching a mediation procedure on its own initiative. Mediation shall be conducted only with the agreement of all Member States that are party to the dispute.

3. The first stage of mediation shall be conducted between the Member States that are party to the dispute and a mediator, who shall adopt a non-binding opinion by common agreement. Experts from the Member States, the Commission and the Authority may participate in the first stage of mediation in an advisory capacity.

4. If no solution is found in the first stage of mediation, the Authority shall launch a second stage of mediation before its Mediation Board, subject to the agreement of all Member States that are party to the dispute.

5. The Mediation Board composed of experts from Member States other than those that are party to the dispute shall seek to reconcile the points of view of the Member States that are party to the dispute and shall agree on a non-binding opinion. Experts from the Commission and the Authority may participate in the second stage of mediation in an advisory capacity.

6. The Management Board shall adopt the rules of procedure for mediation, including working arrangements and the appointment of mediators, the applicable deadlines, the involvement of experts from the Member States, the Commission and the Authority, and the possibility of the Mediation Board to sit in panels composed of several members.

7. The participation of the Member States that are party to the dispute in both stages of mediation shall be voluntary. Where such a Member State decides not to participate in mediation, it shall inform the Authority and the other Member States that are party to the dispute in writing, including by electronic means, of the reasons for its decision within the period set in the rules of procedure referred to in paragraph 6.

8. When presenting a case for mediation, Member States shall ensure that all personal data related to that case is anonymised in such a manner that the data subject is not or no longer identifiable. The Authority shall not process the personal data of individuals concerned by the case at any point in the course of the mediation.

9. Cases in which there are ongoing court proceedings at national or Union level shall not be admissible for mediation by the Authority. Where court proceedings are initiated during the mediation, the mediation procedure shall be suspended.

10. Mediation shall be without prejudice to the competence of the Administrative Commission including all decisions it takes. Mediation shall take into account all relevant decisions of the Administrative Commission.

11. When a dispute relates, fully or in part, to matters of social security, the Authority shall inform the Administrative Commission.

In order to ensure good cooperation, to coordinate the activities in mutual agreement and to avoid any duplication in cases of mediation which concern both issues of social security and labour law, the Administrative Commission and the Authority shall establish a cooperation agreement.

Upon request of the Administrative Commission and in agreement with the Member States that are party to the dispute, the Authority shall refer the issue concerning social security to the Administrative Commission pursuant to Article 74a(2) of Regulation (EC) No 883/2004. Mediation may continue on the issues not concerning social security.

Upon request of any Member State that is party to the dispute, the Authority shall refer the issue concerning social security coordination to the Administrative Commission. That referral may be made at any stage of the mediation. Mediation may continue on the issues not concerning social security.

12. Within three months of the adoption of the non-binding opinion, the Member States that are party to the dispute shall report to the Authority with regard to the measures that they have taken for the purpose of following up on the opinion or, where they have not taken measures, with regard to the reasons why they have not done so.

13. The Authority shall report to the Commission twice a year with regard to the outcome of the mediation cases it has conducted and about cases which were not pursued.

#### *Article 14*

### **Cooperation with agencies and specialised bodies**

The Authority shall aim in all its activities at ensuring cooperation, avoiding overlaps, promoting synergies and complementarity with other decentralised Union agencies and specialised bodies, such as the Administrative Commission. To that end, the Authority may conclude cooperation agreements with relevant Union agencies, such as Cedefop, Eurofound, EU-OSHA, ETF, Europol and Eurojust.

#### *Article 15*

### **Interoperability and exchange of information**

The Authority shall coordinate, develop and apply interoperability frameworks to guarantee the exchange of information between Member States as well as with the Authority. Those interoperability frameworks shall be based on and supported by the European Interoperability Framework and by the European Interoperability Reference Architecture referred to in Decision (EU) 2015/2240.

## CHAPTER III

### **ORGANISATION OF THE AUTHORITY**

#### *Article 16*

### **Administrative and management structure**

1. The Authority's administrative and management structure shall comprise:

(a) a Management Board;

(b) an Executive Director;

(c) a Stakeholder Group.

2. The Authority may set up working groups or expert panels comprising representatives from Member States or from the Commission, or external experts following a selection procedure, or a combination thereof, for the fulfilment of its specific tasks or for specific policy areas. It shall set up the Platform referred to in Article 12 as a permanent working group, and the Mediation Board referred to in Article 13.

The rules of procedure of such working groups and panels shall be set out by the Authority after consulting the Commission.

#### Article 17

##### **Composition of the Management Board**

1. The Management Board shall be composed of:

(a) one member from each Member State;

(b) two members representing the Commission;

(c) one independent expert appointed by the European Parliament;

(d) four members, representing cross-industry social partner organisations at Union level, with an equal representation of trade union and employer organisations.

Only the members referred to in points (a) and (b) of the first subparagraph shall have the right to vote.

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in the member's absence.

3. The members referred to in point (a) of the first subparagraph of paragraph 1 and their alternates shall be appointed by their Member State.

The Commission shall appoint the members referred to in point (b) of the first subparagraph of paragraph 1.

The European Parliament shall appoint the expert referred to in point (c) of the first subparagraph of paragraph 1.

The cross-industry social partner organisations at Union level shall appoint their representatives and the European Parliament shall appoint its independent expert, after verifying that there is no conflict of interest.

Members of the Management Board and their alternates shall be appointed on the basis of their knowledge in the fields referred to in Article 1, taking into account their relevant managerial, administrative and budgetary skills.

All parties represented on the Management Board shall endeavour to limit the turnover of their representatives, in order to ensure continuity of its work. All parties shall aim to achieve a balanced representation between women and men on the Management Board.

4. Each member and alternate shall sign a written statement at the time of taking office declaring that he or she is not in a situation of conflict of interests. Each member and alternate shall update his or her statement in the case of a change of circumstances with regard to any conflict of interests. The Authority shall publish the statements and updates on its website.

5. The term of office of members and alternates shall be four years. That term shall be renewable.
6. Representatives from third countries which are applying the Union law in areas covered by this Regulation may participate in the meetings and deliberations of the Management Board as observers.
7. A representative of Eurofound, a representative of EU-OSHA, a representative of Cedefop and a representative of the European Training Foundation may be invited to participate as observers in the meetings of the Management Board in order to enhance the efficiency of the agencies and the synergies between them.

#### Article 18

##### **Functions of the Management Board**

1. The Management Board shall, in particular:
  - (a) provide the strategic orientations and oversee the Authority's activities;
  - (b) adopt, by a majority of two-thirds of members with the right to vote, the annual budget of the Authority and exercise other functions in respect of the Authority's budget pursuant to Chapter IV;
  - (c) assess and adopt the consolidated annual activity report on the Authority's activities, including an overview of the fulfilment of its tasks, and submit it by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors and make the consolidated annual activity report public;
  - (d) adopt the financial rules applicable to the Authority in accordance with Article 29;
  - (e) adopt an anti-fraud strategy, proportionate to fraud risks, taking into account the costs and benefits of the measures to be implemented;
  - (f) adopt rules for the prevention and management of conflicts of interest in respect of its members and independent experts, as well as the members of the Stakeholder Group and of the working groups and panels of the Authority referred to in Article 16(2), as well as of seconded national experts and other staff not employed by the Authority as referred to in Article 33, and shall publish annually on its website the declarations of interests of the Management Board members;
  - (g) adopt and regularly update the communication and dissemination plans referred to in Article 36(3), based on an analysis of needs;
  - (h) adopt its rules of procedure;
  - (i) adopt the rules of procedure for mediation pursuant to Article 13;
  - (j) set up working groups and expert panels pursuant to Article 16(2) and adopt their rules of procedure;
  - (k) exercise, in accordance with paragraph 2, with respect to the staff of the Authority, the powers of the Appointing Authority conferred by the Staff Regulations and the Authority Empowered to Conclude a Contract of Employment conferred by the Conditions of Employment (the 'appointing authority power');

- (l) adopt implementing rules to give effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations;
- (m) establish, where appropriate, an internal audit capacity;
- (n) appoint and, where relevant, extend the term of office of the Executive Director or remove him or her from office in accordance with Article 31;
- (o) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment, who shall be fully independent in the performance of his or her duties;
- (p) determine the procedure for selecting the members and alternates of the Stakeholder Group set up in accordance with Article 23 and appoint those members and alternates;
- (q) ensure an adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations from OLAF;
- (r) take all decisions on the establishment of the Authority's internal committees or other bodies and, where necessary, their modification, taking into consideration the Authority's activity needs and having regard to sound financial management;
- (s) approve the Authority's draft single programming document referred to in Article 24 before its submission to the Commission for its opinion;
- (t) adopt, having received the opinion of the Commission, the Authority's single programming document by a majority of two-thirds of the members of the Management Board who are entitled to vote and in accordance with Article 24.

2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Executive Director and setting out the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

3. Where exceptional circumstances so require, the Management Board may, by way of decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

#### *Article 19*

#### **Chairperson of the Management Board**

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among the members with voting rights, and shall strive for gender balance. The Chairperson and the Deputy Chairperson shall be elected by a majority of two-thirds of the members of the Management Board with the right to vote.

In the event that a first vote does not reach the two-thirds majority, a second vote shall be organised whereby the Chairperson and Deputy Chairperson shall be elected by a simple majority of the members of the Management Board with the right to vote.

The Deputy Chairperson shall automatically replace the Chairperson if he or she is prevented from attending to his or her duties.

2. The term of office of the Chairperson and the Deputy Chairperson shall be three years. Their term of office may be renewed once. Where, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date.

#### *Article 20*

##### **Meetings of the Management Board**

1. The Chairperson shall convene the meetings of the Management Board.
2. The Chairperson shall organise the deliberations according to the items on the agenda. The members referred to in points (c) and (d) of the first subparagraph of Article 17(1) shall not participate in deliberations on items related to sensitive information regarding individual cases, as specified in the rules of procedure of the Management Board.
3. The Executive Director of the Authority shall take part in the deliberations, without the right to vote.
4. The Management Board shall hold at least two ordinary meetings per year. In addition, it shall meet at the request of its Chairperson, at the request of the Commission, or at the request of at least one-third of its members.
5. The Management Board shall convene meetings with the Stakeholder Group at least once a year.
6. The Management Board may invite any person or organisation whose opinion may be of interest to attend its meetings as an observer, including members of the Stakeholder Group.
7. The members of the Management Board and their alternates may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.
8. The Authority shall provide the secretariat for the Management Board.

#### *Article 21*

##### **Voting rules of the Management Board**

1. Without prejudice to points (b) and (t) of Article 18(1), Article 19(1) and Article 31(8), the Management Board shall take decisions by a majority of members with the right to vote.
2. Each member with the right to vote shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote.
3. The Executive Director of the Authority shall take part in the deliberations, without the right to vote.
4. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and the circumstances in which written procedures are to be used for voting.

#### *Article 22*

##### **Responsibilities of the Executive Director**

1. The Executive Director shall be responsible for the management of the Authority and shall aim to ensure gender balance within the Authority. The Executive Director shall be accountable to the Management Board.
2. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.

3. The Executive Director shall be the legal representative of the Authority.
4. The Executive Director shall be responsible for the implementation of the tasks assigned to the Authority by this Regulation, in particular:
  - (a) the day-to-day administration of the Authority;
  - (b) implementing decisions adopted by the Management Board;
  - (c) preparing the draft single programming document and submitting it to the Management Board for approval;
  - (d) implementing the single programming document and reporting to the Management Board on its implementation;
  - (e) preparing the draft consolidated annual report on the Authority's activities and presenting it to the Management Board for assessment and adoption;
  - (f) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF and reporting on progress twice a year to the Commission and regularly to the Management Board;
  - (g) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial, penalties;
  - (h) preparing an anti-fraud strategy for the Authority and presenting it to the Management Board for approval;
  - (i) preparing the draft financial rules applicable to the Authority and presenting them to the Management Board;
  - (j) preparing the Authority's draft statement of estimates of revenue and expenditure as part of the Authority's single programming document, and implementing its budget;
  - (k) in accordance with the decision referred to in Article 18(2), taking decisions with regard to the management of human resources;
  - (l) taking decisions with regard to the Authority's internal structures including, where necessary, deputising functions which may cover the day-to-day management of the Authority and, where necessary, their amendment, taking into account the needs relating to the Authority's activities and sound budgetary management;
  - (m) where relevant, cooperating with Union agencies and concluding cooperation agreements with them;
  - (n) implementing measures established by the Management Board for the application of Regulation (EU) 2018/1725 by the Authority;
  - (o) informing the Management Board about the submissions from the Stakeholder Group.

5. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States and whether it is necessary to establish a liaison office in Brussels to further the Authority's cooperation with the relevant Union institutions and bodies. Before deciding to establish a local office or a liaison office, the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State where the office is to be located. The decision shall specify the scope of the activities to be carried out at the office in a manner that avoids unnecessary costs and the duplication of administrative functions of the Authority. A headquarters agreement with the Member State where the local office or liaison office is to be located may be required.

#### Article 23

##### **Stakeholder Group**

1. To facilitate the consultation of relevant stakeholders and to benefit from their expertise in areas covered by this Regulation, a Stakeholder Group shall be established. The Stakeholder Group shall be attached to the Authority and shall have advisory functions.

2. The Stakeholder Group shall receive prior briefing and may, upon request of the Authority or on its own initiative, submit opinions to the Authority on:

(a) issues related to the application and enforcement of Union law in the areas covered by this Regulation, including on the cross-border labour mobility analyses and risk assessment, as referred to in Article 10;

(b) the draft consolidated annual activity report on the Authority's activities referred to in Article 18;

(c) the draft single programming document referred to in Article 24.

3. The Stakeholder Group shall be chaired by the Executive Director and shall meet at least twice a year at the initiative of the Executive Director or at the request of the Commission.

4. The Stakeholder Group shall be composed of two representatives of the Commission and ten representatives of the Union-level social partners with an equal representation of trade union and employer organisations, including recognised Union sectoral social partners representing sectors that are particularly concerned with labour mobility issues.

5. The members and alternate members of the Stakeholder Group shall be designated by their organisations and shall be appointed by the Management Board. The alternate members shall be appointed by the Management Board in accordance with the same conditions as the members, and shall automatically replace any members who are absent. To the extent possible, an appropriate gender balance and an adequate representation of SMEs shall be achieved.

6. The Authority shall provide the secretariat for the Stakeholder Group. The Stakeholder Group shall adopt its rules of procedure by a majority of two-thirds of its members entitled to vote. The rules of procedure shall be subject to approval by the Management Board.

7. The Stakeholder Group may invite experts or representatives of relevant international organisations to its meetings.

8. The Authority shall make public the opinions, advice and recommendations of the Stakeholder Group and the results of its consultations, except in case of confidentiality requirements.

#### CHAPTER IV

### ESTABLISHMENT AND STRUCTURE OF THE BUDGET OF THE AUTHORITY

#### SECTION 1

### *Single Programming Document of the Authority*

#### *Article 24*

### **Annual and multi-annual programming**

1. Each year, the Executive Director shall draw up a draft single programming document containing in particular multi-annual and annual programming in accordance with Commission Delegated Regulation (EU) No 1271/2013<sup>(28)</sup>, taking into account guidelines set by the Commission and any advice given by the Stakeholder Group.

2. By 30 November each year, the Management Board shall adopt the draft single programming document referred to in paragraph 1. It shall forward it to the European Parliament, the Council and the Commission by 31 January of the following year, as well as any later updated version of that document.

The single programming document shall become definitive after final adoption of the general budget of the Union, and if necessary shall be adjusted accordingly.

3. The annual work programme shall set out detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action. The annual work programme shall be consistent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. The Management Board shall amend the adopted annual work programme when a new task is given to the Authority within the scope of this Regulation.

Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

4. The multi-annual work programme shall set out the overall strategic programming including objectives, expected results and performance indicators. It shall also show, for each activity, the indicative financial and human resources considered necessary to attain the objectives set.

The strategic programming shall be updated where appropriate, in particular to address the outcome of the evaluation referred to in Article 40.

#### *Article 25*

### **Establishment of the budget**

1. Each year, the Executive Director shall draw up a provisional draft estimate of the Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.

2. The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 24(3) and shall take into account the financial resources necessary to achieve those objectives and expected results, in accordance with the principle of performance-based budgeting.

<sup>(28)</sup> Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

3. The Management Board shall, on the basis of the provisional draft estimate, adopt a draft estimate of the Authority's revenue for the following financial year, and shall send it to the Commission by 31 January each year.
4. The Commission shall send the draft estimate to the budgetary authority together with the draft general budget of the Union. The draft estimate shall also be made available to the Authority.
5. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimates that it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.
6. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to the Authority.
7. The budgetary authority shall adopt the Authority's establishment plan.
8. The Management Board shall adopt the Authority's budget. It shall become final following the final adoption of the general budget of the Union and, if necessary, it shall be adjusted accordingly.
9. For any building project likely to have significant implications for the budget of the Authority, Delegated Regulation (EU) No 1271/2013 shall apply.

## SECTION 2

### ***Presentation, implementation and control of the budget of the Authority***

#### *Article 26*

#### **Structure of the budget**

1. Estimates of all revenue and expenditure of the Authority shall be prepared each financial year and shall be shown in the Authority's budget. The financial year shall correspond to the calendar year.
2. The Authority's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the Authority's revenue shall comprise:
  - (a) a contribution from the Union entered in the general budget of the Union;
  - (b) any voluntary financial contribution from the Member States;
  - (c) any contribution from third countries participating in the work of the Authority, as provided for in Article 42;
  - (d) possible Union funding in the form of delegation agreements or ad hoc grants in accordance with the Authority's financial rules referred to in Article 29 and with the provisions of the relevant instruments supporting the policies of the Union;
  - (e) charges for publications and any service provided by the Authority.

4. The expenditure of the Authority shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

#### Article 27

##### **Implementation of the budget**

1. The Executive Director shall implement the Authority's budget.
2. Each year the Executive Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

#### Article 28

##### **Presentation of accounts and discharge**

1. The Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors by 1 March of the following financial year (year N + 1).
2. The Authority's accounting officer shall also provide the required accounting information for consolidation purposes to the Commission's accounting officer, in the manner and format required by the latter by 1 March of year N + 1.
3. The Authority shall send the report on the budgetary and financial management for year N to the European Parliament, the Council, the Commission and the Court of Auditors by 31 March of year N + 1.
4. On receipt of the Court of Auditor's observations on the Authority's provisional accounts for year N, the Authority's accounting officer shall draw up the Authority's final accounts under his or her own responsibility. The Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Authority's final accounts for year N.
6. The Authority's accounting officer shall, by 1 July of year N + 1, send the final accounts for year N to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. A link to the pages of the website containing the final accounts of the Authority shall be published in the *Official Journal of the European Union* by 15 November of year N + 1.
8. The Executive Director shall send to the Court of Auditors, by 30 September of year N + 1, a reply to the observations made in its annual report. The Executive Director shall also send this reply to the Management Board and to the Commission.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for year N, in accordance with Article 261(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(29)</sup>.
10. On a recommendation from the Council acting by qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

<sup>(29)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

*Article 29***Financial rules**

The financial rules applicable to the Authority shall be adopted by the Management Board after consulting the Commission. They shall not depart from Delegated Regulation (EU) No 1271/2013 unless such a departure is specifically required for the Authority's operation and the Commission has given its prior consent.

## CHAPTER V

**STAFF***Article 30***General provision**

The Staff Regulations and the Conditions of Employment and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations and the Conditions of Employment shall apply to the staff of the Authority.

*Article 31***Executive Director**

1. The Executive Director shall be engaged as a temporary agent of the Authority in accordance with point (a) of Article 2 of the Conditions of Employment.
2. The Executive Director shall be appointed by the Management Board from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The selected candidate shall be invited to make a statement before the European Parliament and to answer questions from Members of Parliament. That exchange of views shall not unduly delay the appointment of the Executive Director.
3. For the purpose of concluding the contract with the Executive Director, the Authority shall be represented by the Chairperson of the Management Board.
4. The term of office of the Executive Director shall be five years. Before the end of that period, the Commission shall carry out an assessment that takes into account an evaluation of the Executive Director's performance and the Authority's future tasks and challenges.
5. The Management Board may, taking into account the assessment referred to in paragraph 4, extend the Executive Director's term of office once by no more than five years.
6. An Executive Director whose term of office has been extended pursuant to paragraph 5 shall not participate in another selection procedure for the same post at the end of the overall period.
7. The Executive Director may be removed from office only upon a decision of the Management Board. In its decision, the Management Board shall take into account the Commission's assessment of the Executive Director's performance, as referred to in paragraph 4.
8. The Management Board shall reach decisions on the appointment, extension of the term of office or removal from office of the Executive Director on the basis of a majority of two-thirds of members with the right to vote.

*Article 32***National Liaison Officers**

1. Each Member State shall designate one National Liaison Officer as a seconded national expert to the Authority and to work at its seat, pursuant to Article 33.
2. National Liaison Officers shall contribute to executing the tasks of the Authority, including by facilitating the cooperation and exchange of information set out in Article 7 and the support and coordination of inspections set out in Article 8. They shall also act as national contact points for questions from their Member States and relating to their Member States, either by answering those questions directly or by liaising with their national administrations.
3. National Liaison Officers shall be entitled to request and receive all relevant information from their Member States, as provided for by this Regulation, while fully respecting the national law or practice of their Member States, in particular as regards data protection and the rules on confidentiality.

*Article 33***Seconded national experts and other staff**

1. In addition to the National Liaison Officers, the Authority may make use of other seconded national experts or other staff not employed by the Authority, in any areas of its work.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts, including National Liaison Officers.

## CHAPTER VI

**GENERAL AND FINAL PROVISIONS***Article 34***Privileges and immunities**

Protocol No 7 on the privileges and immunities of the European Union shall apply to the Authority and its staff.

*Article 35***Language arrangements**

1. The provisions laid down in Council Regulation No 1<sup>(30)</sup> shall apply to the Authority.
2. The translation services required for the Authority's functioning shall be provided by the Translation Centre.

*Article 36***Transparency, protection of personal data and communication**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Authority. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.
2. The Management Board shall establish measures to comply with the obligations laid down in Regulation (EU) 2018/1725, in particular those concerning the appointment of a Data Protection Officer of the Authority and those relating to the lawfulness of the processing of data, the security of the processing activities, the provision of information and the rights of data subjects.

<sup>(30)</sup> Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

3. The Authority may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 4. Communication activities shall be carried out in accordance with the relevant communication and dissemination plans adopted by the Management Board.

#### Article 37

##### Combating fraud

1. In order to facilitate the fight against fraud, corruption and other illegal activities under Regulation (EU, Euratom) No 883/2013, the Authority shall, within six months from the day that it becomes operational, accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by OLAF and shall adopt appropriate provisions applicable to all employees of the Authority using the template set out in the Annex to that Agreement.

2. The Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Authority.

3. OLAF may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Authority, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and in Council Regulation (Euratom, EC) No 2185/96<sup>(31)</sup>.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Authority shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

#### Article 38

##### Security rules on the protection of classified and sensitive non-classified information

The Authority shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, set out in Commission Decisions (EU, Euratom) 2015/443<sup>(32)</sup> and (EU, Euratom) 2015/444<sup>(33)</sup>. The Authority's security rules shall cover, inter alia, provisions for the exchange, processing and storage of such information.

#### Article 39

##### Liability

1. The Authority's contractual liability shall be governed by the law applicable to the contract in question.

2. The Court of Justice shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Authority.

3. In the case of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4. The Court of Justice shall have jurisdiction in disputes relating to compensation for damages as referred to in paragraph 3.

<sup>(31)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(32)</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p. 41).

<sup>(33)</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

5. The personal liability of its staff towards the Authority shall be governed by the provisions laid down in the Staff Regulations and the Conditions of Employment applicable to them.

#### *Article 40*

##### **Evaluation and review**

1. By 1 August 2024, and every five years thereafter, the Commission shall assess the Authority's performance in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the experiences gained from the mediation procedure pursuant to Article 13. It shall also assess whether there is a need to modify the mandate of the Authority and the scope of its activities, including the extension of the scope to cover sector specific needs, and the financial implications of any such modification, taking into account also the work carried out by Union agencies in those areas. The evaluation shall also explore further synergies and streamlining with agencies in the area of employment and social policy. On the basis of the evaluation, the Commission may, as appropriate, submit legislative proposals to review the scope of this Regulation.

2. Where the Commission considers that the continuation of the Authority is no longer justified with regard to its objectives, mandate and tasks, it may propose that this Regulation be amended or repealed accordingly.

3. The Commission shall report to the European Parliament, the Council and the Management Board on the findings of the evaluation. The findings of the evaluation shall be made public.

#### *Article 41*

##### **Administrative inquiries**

The activities of the Authority shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 TFEU.

#### *Article 42*

##### **Cooperation with third countries and international organisations**

1. In so far as is necessary in order to achieve the objectives set out in this Regulation, and without prejudice to the competence of the Member States and of the Union institutions, the Authority may cooperate with the competent authorities of third countries and with international organisations.

To that end, the Authority may, subject to the authorisation of the Management Board and after the approval of the Commission, establish working arrangements with the competent authorities of third countries and with international organisations. Those arrangements shall not create legal obligations on the Union or the Member States.

2. The Authority shall be open to the participation of third countries that have entered into agreements with the Union to that effect.

Under the relevant provisions of the agreements referred to in the first subparagraph, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries concerned are to participate in the work of the Authority, including provisions relating to participation in the initiatives carried out by the Authority, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations and the Conditions of Employment.

3. The Commission shall ensure that the Authority operates within its mandate and the existing institutional framework by concluding an appropriate working arrangement with the Authority's Executive Director.

*Article 43***Headquarters agreement and operating conditions**

1. The necessary arrangements concerning the accommodation to be provided for the Authority in the host Member State, together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, staff and members of their families, shall be laid down in a Headquarters agreement between the Authority and the Member State where the seat is located, to be concluded after obtaining the approval of the Management Board and no later than 1 August 2021.
  
2. The Authority's host Member State shall provide the best possible conditions to ensure the smooth and efficient functioning of the Authority, including multilingual, European-oriented schooling and appropriate transport connections.

*Article 44***Commencement of the Authority's activities**

1. The Authority shall become operational with the capacity to implement its own budget by 1 August 2021.
  
2. The Commission shall be responsible for the establishment and initial operation of the Authority until the Authority becomes operational. For that purpose:
  - (a) until the Executive Director takes up his or her duties following his or her appointment by the Management Board in accordance with Article 31, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;
  
  - (b) by derogation from point (k) of Article 18(1) and until the adoption of a decision as referred to in Article 18(2), the interim Executive Director shall exercise the appointing authority power;
  
  - (c) the Commission may offer assistance to the Authority, in particular by seconding Commission officials to carry out the activities of the Authority under the responsibility of the interim Executive Director or the Executive Director;
  
  - (d) the interim Executive Director may authorise all payments covered by appropriations entered in the Authority's budget after approval by the Management Board and may conclude contracts, including staff contracts, following the adoption of the Authority's establishment plan.

*Article 45***Amendments to Regulation (EC) No 883/2004**

Regulation (EC) No 883/2004 is amended as follows:

- (1) in Article 1, the following point is inserted:

'(na) "European Labour Authority" means the body established by Regulation (EU) 2019/1149 of the European Parliament and of the Council (\*) and referred to in Article 74a;

---

(\*) Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).;

(2) the following article is inserted:

*'Article 74a*

**The European Labour Authority**

1. Without prejudice to the tasks and activities of the Administrative Commission, the European Labour Authority shall support the application of this Regulation in accordance with its tasks set out in Regulation (EU) 2019/1149. The Administrative Commission shall cooperate with the European Labour Authority in order to coordinate the activities in mutual agreement and avoid any duplication. To that end, it shall conclude a cooperation agreement with the European Labour Authority.

2. The Administrative Commission may request the European Labour Authority to refer an issue concerning social security under mediation in accordance with the third subparagraph of Article 13(11) of Regulation (EU) 2019/1149.'

*Article 46*

**Amendments to Regulation (EU) No 492/2011**

Regulation (EU) No 492/2011 is amended as follows:

(1) in Article 26 the following paragraph is added:

'The European Labour Authority established by Regulation (EU) 2019/1149 of the European Parliament and of the Council (\*) shall participate in the meetings of the Advisory Committee as an observer, providing technical input and expertise as relevant.

---

(\*) Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).';

(2) Articles 29 to 34 are deleted with effect on the date when the Authority becomes operational in accordance with Article 44(1) of this Regulation;

(3) Article 35 is replaced by the following:

*'Article 35*

The rules of procedure of the Advisory Committee in force on 8 November 1968 shall continue to apply.;

(4) Article 39 is replaced by the following:

*'Article 39*

The administrative expenditure of the Advisory Committee shall be included in the general budget of the European Union in the section relating to the Commission.'

## Article 47

**Amendments to Regulation (EU) 2016/589**

Regulation (EU) 2016/589 is amended as follows:

(1) Article 1 is amended as follows:

(a) point (a) is replaced by the following:

‘(a) the organisation of the EURES network between the Commission, the European Labour Authority and the Member States;’;

(b) point (b) is replaced by the following:

‘(b) cooperation between the Commission, the European Labour Authority and the Member States on sharing relevant available data on job vacancies, job applications and CVs;’;

(c) point (f) is replaced by the following:

‘(f) promotion of the EURES network at Union level through effective communication measures taken by the Commission, the European Labour Authority and the Member States.’;

(2) in Article 3, the following point is added:

‘(8) “European Labour Authority” means the body established pursuant to Regulation (EU) 2019/1149 of the European Parliament and of the Council (\*)

---

(\*) Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21).’;

(3) in Article 4, paragraph 2 is replaced by the following:

‘2. Accessibility for persons with disabilities to the information provided on the EURES portal and to support services available at national level shall be ensured. The Commission, the European Coordination Office and EURES Members and Partners shall determine the means to ensure this with regard to their respective obligations.’;

(4) Article 7(1) is amended as follows:

(a) point (a) is replaced by the following:

‘(a) a European Coordination Office, which shall be established within the European Labour Authority and which shall be responsible for assisting the EURES network in carrying out its activities;’;

(b) the following point is added:

‘(e) the Commission.’;

(5) Article 8 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

‘The European Coordination Office shall assist the EURES network in carrying out its activities, in particular by developing and conducting, in close cooperation with the NCOs and the Commission, the following activities:’;

(ii) in point (a), point (i) is replaced by the following:

‘(i) as the system owner for the EURES portal, and related IT services, the definition of user needs and business requirements to be transmitted to the Commission for the operation and development of the portal, including its systems and procedures for the exchange of job vacancies, job applications, CVs and supporting documents and other information, in cooperation with other relevant Union information and advisory services or networks, and initiatives;’;

(b) paragraph 2 is replaced by the following:

‘2. The European Coordination Office shall be managed by the European Labour Authority. The European Coordination Office shall establish a regular dialogue with the representatives of the social partners at Union level.’;

(c) paragraph 3 is replaced by the following:

‘3. The European Coordination Office shall, after consulting the Coordination Group referred to in Article 14 and the Commission, draw up its multiannual work programmes.’;

(6) in Article 9(2), point (b) is replaced by the following:

‘(b) cooperation with the Commission, the European Labour Authority and the Member States on the clearance within the framework set in Chapter III;’;

(7) in Article 14, paragraph 1 is replaced by the following:

‘1. The Coordination Group shall be composed of representatives at the appropriate level of the Commission, the European Coordination Office and the NCOs.’;

(8) in Article 16, paragraph 6 is replaced by the following:

‘6. Member States shall, together with the Commission and the European Coordination Office, examine every possibility of giving priority to citizens of the Union when filling job vacancies, in order to achieve a balance between labour supply and demand within the Union. Member States may adopt measures necessary for that purpose.’;

(9) in Article 19, paragraph 1 is replaced by the following:

‘1. Member States shall cooperate with each other, with the Commission and with the European Coordination Office regarding interoperability between national systems and the European classification developed by the Commission. The Commission shall keep the Member States informed about the development of the European classification.’;

(10) Article 29 is replaced by the following:

*'Article 29*

**Exchange of information on flows and patterns**

The Commission and the Member States shall monitor and make public labour-mobility flows and patterns in the Union on the basis of reports by the European Labour Authority, using Eurostat statistics and available national data.'

*Article 48*

**Repeal**

Decision (EU) 2016/344 is repealed with effect on the date when the Authority becomes operational in accordance with Article 44(1) of this Regulation.

References to the repealed Decision shall be construed as references to this Regulation.

*Article 49*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 20 June 2019.

*For the European Parliament*  
*The President*  
A. TAJANI

*For the Council*  
*The President*  
G. CIAMBA

## ANNEX

## ACTIVITIES OF THE PLATFORM ESTABLISHED IN ACCORDANCE WITH ARTICLE 16(2)

In supporting the objectives of the Authority in tackling undeclared work, the Platform shall, in particular, seek to:

- (1) improve the knowledge of undeclared work, including causes, regional differences and cross-border aspects thereof, by means of shared definitions and common concepts, evidence-based measurement tools and promotion of comparative analysis; develop mutual understanding of different systems and practices to tackle undeclared work and analysing the effectiveness of policy measures, including preventive measures and penalties;
  - (2) facilitate and evaluate different forms of cooperation between Member States, and where relevant third countries, such as the exchange of staff, use of databases, joint activities and joint trainings, and set up a system of information exchange for administrative cooperation using a specific module on undeclared work under the IMI system;
  - (3) establish tools, for instance a knowledge bank, for efficient sharing of information and experiences, and developing guidelines for enforcement, handbooks of good practices, shared principles of inspections to tackle undeclared work and common activities such as European campaigns; evaluate experiences of such tools;
  - (4) develop a peer learning programme for the identification of good practices in all areas relevant for tackling undeclared work and organising peer reviews to follow progress in tackling undeclared work in Member States choosing to participate in such reviews;
  - (5) exchange national authorities' experiences in applying Union law relevant to tackling undeclared work.
-