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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/125 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 January 2019

concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

(codification)

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 Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Council Regulation (EC) No 1236/2005 ⁽²⁾ has been substantially amended several times ⁽³⁾. In the interests of clarity and rationality, that Regulation should be codified.
- (2) Pursuant to Article 2 of the Treaty on European Union, respect for human rights constitutes one of the values common to the Member States. The European Community resolved in 1995 to make respect for human rights and fundamental freedoms an essential element of its relations with third countries. It was decided to insert a clause to that end in any new trade, cooperation and association agreement of a general nature concluded with third countries.
- (3) Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms all lay down an unconditional, comprehensive prohibition on torture and other cruel, inhuman or degrading treatment or punishment. Other provisions, in particular the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ⁽⁴⁾ and the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, place an obligation on States to prevent torture.
- (4) Article 2(2) of the Charter of Fundamental Rights of the European Union (Charter) states that no one shall be condemned to the death penalty or executed. On 22 April 2013, the Council approved 'EU Guidelines on death penalty' and resolved that the Union would work towards the universal abolition of the death penalty.
- (5) Article 4 of the Charter states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. On 20 March 2012, the Council approved 'Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment (An up-date of the Guidelines)'.

⁽¹⁾ Position of the European Parliament of 29 November 2018 (not yet published in the Official Journal) and Decision of the Council of 17 December 2018.

⁽²⁾ Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 200, 30.7.2005, p. 1).

⁽³⁾ See Annex X.

⁽⁴⁾ Resolution 3452 (XXX) of 9 December 1975 of the General Assembly of the United Nations.

In accordance with those guidelines, third countries should be urged to prevent the use and production of, and trade in, equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment and prevent the abuse of any other equipment to these ends. Moreover, the prohibition of cruel, inhuman or degrading punishment should impose clear limits on the use of the death penalty. Therefore, capital punishment is not to be considered a lawful penalty under any circumstances.

- (6) It is therefore appropriate to lay down Union rules on trade with third countries in goods which could be used for the purpose of capital punishment, and in goods which could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. These rules are instrumental in promoting respect for human life and for fundamental human rights and thus serve the purpose of protecting public morals. Such rules should ensure that Union economic operators do not derive any benefits from trade which either promotes or otherwise facilitates the implementation of policies on capital punishment or on torture and other cruel, inhuman or degrading treatment or punishment, which are not compatible with the relevant EU Guidelines, the Charter and international conventions and treaties.
- (7) For the purpose of this Regulation, it is considered appropriate to apply the definition of torture laid down in the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in Resolution 3452 (XXX) of the General Assembly of the United Nations. That definition should be interpreted taking into account the case-law on the interpretation of the corresponding term in the European Convention on Human Rights and in relevant texts adopted by the Union or its Member States. The definition of 'other cruel, inhuman or degrading treatment or punishment', which is not found in that Convention, should be in line with the case law of the European Court of Human Rights. The meaning of the term 'lawful penalties' in the definitions of 'torture' and 'other cruel, inhuman or degrading treatment or punishment', should take into account the Union's policy on capital punishment.
- (8) It is considered necessary to prohibit exports and imports of goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment and to prohibit the supply of technical assistance in respect of such goods.
- (9) Where such goods are located in third countries, it is necessary to prohibit brokers in the Union from providing brokering services in relation to such goods.
- (10) In order to contribute to the abolition of the death penalty in third countries and to the prevention of torture and other cruel, inhuman or degrading treatment or punishment, it is considered necessary to prohibit the supply to third countries of technical assistance related to goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (11) It is also appropriate to prohibit brokers and suppliers of technical assistance from providing training on the use of such goods to third countries as well as to prohibit both the promotion of such goods in trade fairs or exhibitions in the Union, and the sale or purchase of advertising space in print media or on the Internet and of advertising time on television or radio in relation to such goods.
- (12) In order to prevent economic operators from deriving benefits from transporting goods which are intended to be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, and which pass through the customs territory of the Union on their way to a third country, it is necessary to prohibit transport within the Union of such goods, if they are listed in Annex II to this Regulation.
- (13) It should be possible for Member States to apply measures restricting the supply of certain services in relation to goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, in compliance with the applicable Union rules.
- (14) This Regulation lays down an export authorisation system designed to prevent certain goods from being used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.
- (15) It is therefore necessary to impose controls on exports of certain goods which could be used not only for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, but also for legitimate purposes. These controls should apply to goods that are primarily used for law enforcement purposes and unless such controls prove disproportionate, to any other equipment or product that could be abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, taking into account its design and technical features.

- (16) As regards law enforcement equipment, it should be noted that Article 3 of the Code of Conduct for Law Enforcement Officials ⁽⁵⁾ provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, provide that, in carrying out their duty, law enforcement officials should, as far as possible, apply non-violent means before resorting to the use of force and firearms.
- (17) In view of this, the Basic Principles advocate the development of non-lethal incapacitating weapons for use in appropriate situations, while admitting that the use of such weapons should be carefully controlled. In this context, certain equipment traditionally used by the police for self-defence and riot-control purposes has been modified in such a way that it can be used to apply electric shocks and chemical substances to incapacitate persons. There are indications that, in several countries, such weapons are abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (18) The Basic Principles stress that law enforcement officials should be equipped with equipment for self-defence. Therefore, this Regulation should not apply to trade in traditional equipment for self-defence, such as shields.
- (19) This Regulation should apply to trade in some specific chemical substances used to incapacitate persons.
- (20) As regards leg-irons, gang-chains and shackles and cuffs, it should be noted that Article 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners ⁽⁶⁾ provides that instruments of restraint must never be applied as a punishment. Furthermore, chains and irons are not to be used as restraints. It should also be noted that the United Nations Standard Minimum Rules for the Treatment of Prisoners provide that other instruments of restraint must not be used except as a precaution against escape during a transfer, on medical grounds as directed by a medical officer, or, if other methods of control fail, in order to prevent a prisoner from injuring himself or others, or from damaging property.
- (21) In order to protect staff and other people against spitting, prisoners are sometimes made to wear a so-called spit hood. As such a hood covers the mouth and often also the nose, it presents an inherent risk of asphyxiation. If it is combined with restraints, such as handcuffs, there is also a risk of neck injury. Exports of spit hoods should therefore be controlled.
- (22) In addition to portable weapons, the scope of the export controls should include fixed or mountable electric discharge weapons covering a wide area and targeting multiple individuals. Such weapons are often presented as so-called non-lethal weapons but present, at the very least, the same risk of causing severe pain or suffering as portable electric discharge weapons.
- (23) As fixed devices for dissemination of irritating chemical substances for use inside a building are being marketed, and indoor use of such substances presents a risk of causing severe pain or suffering not associated with traditional use outdoors, exports of such equipment should be controlled.
- (24) Export controls should also be applied to fixed or mountable equipment for the dissemination of incapacitating or irritating substances which covers a wide area, where such equipment is not yet subject to export controls in accordance with Council Common Position 2008/944/CFSP ⁽⁷⁾. Such equipment is often presented as so-called non-lethal technology but presents at the very least the same risk of causing severe pain or suffering as portable weapons and devices. Although water is not one of the incapacitating or irritating chemical agents, water cannons may be used to disseminate such agents in liquid form and their exports should be controlled.
- (25) The export controls concerning oleoresin capsicum (OC) and pelargonic acid vanillylamide (PAVA) should be supplemented by export controls on certain mixtures containing these substances which can be administered as such as incapacitating or irritating agents or used for manufacturing of such agents. Where appropriate, references to incapacitating or irritating chemical agents should be construed as including oleoresin capsicum and the relevant mixtures containing it.

⁽⁵⁾ Resolution 34/169 of 17 December 1979 of the General Assembly of the United Nations.

⁽⁶⁾ Approved by Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 of the Economic and Social Council of the United Nations.

⁽⁷⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

- (26) It is appropriate to provide for specific exemptions from the export controls in order not to impede the functioning of the police forces of the Member States and the execution of peacekeeping or crisis management operations.
- (27) Taking into account the fact that some Member States have already prohibited exports and imports of such goods, it is appropriate to grant Member States the right to prohibit exports and imports of leg-irons, gang-chains and portable electric shock devices other than electric shock belts. Member States should also be empowered to apply export controls on handcuffs having an overall dimension, including chain, exceeding 240 mm when locked, if they so wish.
- (28) In order to limit the administrative burden for exporters, competent authorities should be allowed to grant an exporter a global authorisation in respect of goods listed in Annex III to this Regulation to prevent the relevant goods from being used for torture or for other cruel, inhuman or degrading treatment or punishment.
- (29) In some cases, medicinal products exported to third countries have been diverted and used for capital punishment, notably by administering a lethal overdose by means of injection. The Union disapproves of capital punishment in all circumstances and works towards its universal abolition. The exporters objected to their involuntary association with such use of the products they developed for medical use.
- (30) It is therefore necessary to impose controls on exports of certain goods which could be used for capital punishment in order to prevent the use of certain medicinal products for that purpose and to ensure that all Union exporters of medicinal products are subject to uniform conditions in this regard. The relevant medicinal products were developed for, *inter alia*, anaesthesia and sedation.
- (31) The export authorisation system should not go beyond what is proportionate. It should, therefore, not prevent the export of medicinal products to be used for legitimate therapeutic purposes.
- (32) The list of goods for whose export an authorisation is required with a view to preventing these goods from being used for capital punishment should only include goods that have been used for capital punishment in a third country that has not abolished capital punishment and goods whose use for capital punishment any such third country has approved, without having used them for that purpose yet. It should not include non-lethal goods which are not essential for executing a convicted person, such as standard furniture that may also be found in the execution chamber.
- (33) Given the differences between capital punishment, on the one hand, and torture and other cruel, inhuman or degrading treatment or punishment on the other, it is appropriate to lay down a specific export authorisation system with a view to preventing the use of certain goods for capital punishment. Such a system should take into account the fact that a number of countries have abolished capital punishment for all crimes and have made an international commitment on this issue. As there is a risk of re-export to countries that have not done so, certain conditions and requirements should be imposed when authorising exports to countries that have abolished capital punishment. It is therefore appropriate to grant a general export authorisation for exports to those countries that have abolished capital punishment for all crimes and confirmed that abolition through an international commitment.
- (34) If a country has not abolished capital punishment for all crimes and confirmed that abolition through an international commitment, the competent authorities should, when examining a request for an export authorisation, check whether there is a risk that the end-user in the country of destination would use the exported goods for such punishment. Appropriate conditions and requirements should be imposed to control sales or transfers to third parties by the end-user. If multiple shipments between the same exporter and end-user take place, the competent authorities should be allowed to review the status of the end-user on a periodic basis, for example every six months, rather than every time an export authorisation for a shipment is granted, without prejudice to the right of the competent authorities to annul, suspend, modify or revoke an export authorisation where warranted.
- (35) In order to limit the administrative burden for exporters, the competent authorities should be allowed to grant an exporter a global authorisation for all shipments of medicinal products from the exporter to a specific end-user for a fixed period of time, specifying, where necessary, a quantity corresponding to the end-user's normal use of such products. Such authorisation should be valid for between one and three years with a possible extension of up to two years.

- (36) Granting a global authorisation would also be appropriate where a manufacturer intends to export medicinal products falling within the scope of this Regulation to a distributor in a country that has not abolished capital punishment, provided that the exporter and the distributor have concluded a legally binding agreement requiring the distributor to apply an appropriate set of measures ensuring that the medicinal products will not be used for capital punishment.
- (37) Medicinal products falling within the scope of this Regulation may be subject to controls in accordance with international conventions on narcotic drugs and psychotropic substances, such as the 1971 Convention on Psychotropic Substances. Since such controls are not applied to prevent the relevant medicinal products from being used for capital punishment but to prevent illicit drug trafficking, the export controls of this Regulation should be applied in addition to those international controls. Member States should, however, be encouraged to use a single procedure in order to apply both control systems.
- (38) The controls on exports in accordance with this Regulation should not apply to goods whose export is controlled in accordance with Common Position 2008/944/CFSP, Council Regulation (EC) No 428/2009⁽⁸⁾ and Regulation (EU) No 258/2012 of the European Parliament and of the Council⁽⁹⁾.
- (39) The supply of brokering services and the supply of technical assistance in respect of the goods listed in Annex III or in Annex IV to this Regulation should be subject to prior authorisation in order to prevent the brokering services or the technical assistance from contributing to the use of the goods to which they relate for the purpose of capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.
- (40) The brokering services and technical assistance which this Regulation subjects to prior authorisation should be those that are supplied from within the Union, that is from within territories within the territorial scope of the Treaties, including airspace and any aircraft or any vessel under the jurisdiction of a Member State.
- (41) When authorising the supply of technical assistance related to goods listed in Annex III to this Regulation, the competent authorities should endeavour to ensure that the technical assistance and any training on the use of such goods that would be supplied or offered in conjunction with the technical assistance for which the authorisation is requested are provided in such a way that they promote law enforcement standards that respect human rights and contribute to the prevention of torture and other cruel, inhuman or degrading treatment or punishment.
- (42) In order to prevent economic operators from deriving benefits from transporting goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment and which pass through the customs territory of the Union on their way to a third country, it is necessary to prohibit transport within the Union of such goods, if they are listed in Annex III or Annex IV to this Regulation, provided the economic operator has knowledge of the intended use.
- (43) The Guidelines to EU Policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment provide, *inter alia*, that the Heads of Mission in third countries will include in their periodic reports an analysis of the occurrence of torture and other cruel, inhuman or degrading treatment or punishment in the State of their accreditation, and the measures taken to combat it. It is appropriate for the competent authorities to take those and similar reports made by relevant international and civil society organisations into account when deciding on requests for authorisations. Such reports should also describe any equipment used in third countries for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (44) While customs authorities should share certain information with other customs authorities using the customs risk management system in accordance with Union customs legislation, the competent authorities referred to in this Regulation should share certain information with other competent authorities. It is appropriate to require that the competent authorities use a secure and encrypted system for the exchange of information on denials. To that end, the Commission should make available a new functionality in the existing system set up pursuant to Article 19(4) of Regulation (EC) No 428/2009.

⁽⁸⁾ Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

⁽⁹⁾ Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).

- (45) To the extent that it concerns personal data, processing and the exchange of information should comply with the applicable rules on processing and the exchange of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁰⁾ and Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹¹⁾.
- (46) In order to adopt the provisions necessary for the application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to Annexes I to IX to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹²⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (47) In order to allow the Union to respond quickly when new goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, are developed, and where there is a clear and immediate risk that those goods will be used for purposes that entail such human rights abuses, it is appropriate to provide for the immediate application of the relevant Commission act, where, in the case of amendment of Annex II or III to this Regulation, there are imperative grounds of urgency for such amendment. In order to allow the Union to respond quickly when one or more third countries either approve certain goods for use for capital punishment, or accept or violate an international commitment to abolish capital punishment for all crimes, it is appropriate to provide for the immediate application of the relevant Commission act, where, in the case of amendment of Annex IV or V to this Regulation, imperative grounds of urgency so require. Where the urgency procedure is followed, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (48) A coordination group should be established. The group should serve as a platform for Member States' experts and the Commission to exchange information on administrative practices and to discuss questions of interpretation of this Regulation, technical issues with respect to the goods listed, developments related to this Regulation and any other questions that may arise. The group should, in particular, be able to discuss issues related to the nature and the intended effect of goods, the availability of goods in third countries and the question whether goods are specifically designed or modified for capital punishment or for torture or other cruel, inhuman or degrading treatment or punishment. If the Commission decides to consult the group when preparing delegated acts, it should do so in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.
- (49) The Commission does not procure equipment for law enforcement purposes since it is not responsible for maintenance of law and order, proceedings in criminal matters or the enforcement of judicial decisions in criminal matters. Therefore, a procedure should be established to ensure that the Commission receives information on non-listed law enforcement equipment and products marketed in the Union in order to ensure that the lists of goods whose trade is prohibited or controlled are updated to take account of new developments. When addressing its request to the Commission, the requesting Member State should forward its request to add goods to Annex II, to Annex III or to Annex IV to this Regulation to other Member States.
- (50) The measures of this Regulation are intended to prevent both capital punishment and torture and other cruel, inhuman or degrading treatment or punishment in third countries. They comprise restrictions on trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment. It is not considered necessary to establish similar controls on transactions within the Union as, in the Member States, capital punishment does not exist and Member States will have adopted appropriate measures to outlaw and prevent torture and other cruel, inhuman or degrading treatment or punishment.
- (51) The Guidelines to EU Policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment state that, in order to meet the objective of taking effective measures against torture and other cruel, inhuman or degrading treatment or punishment, measures should be taken to prevent the use, production

⁽¹⁰⁾ 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).

⁽¹¹⁾ 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).

⁽¹²⁾ OJ L 123, 12.5.2016, p. 1.

and trade of equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. It is up to the Member States to impose and enforce the necessary restrictions on the use and production of such equipment.

- (52) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (53) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down Union rules governing trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, and rules governing the supply of brokering services, technical assistance, training and advertising related to such goods.

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from that person or from a third person information or a confession, punishing that person for an act that either that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;
- (b) 'other cruel, inhuman or degrading treatment or punishment' means any act by which pain or suffering attaining a minimum level of severity, whether physical or mental, is inflicted on a person, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;
- (c) 'law enforcement authority' means any authority responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor, any judicial authority, any public or private prison authority and, where appropriate, any of the state security forces and military authorities;
- (d) 'export' means any departure of goods from the customs territory of the Union, including the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽¹³⁾;
- (e) 'import' means any entry of goods into the customs territory of the Union, including temporary storage, the placing in a free zone, the placing under a special procedure and the release for free circulation within the meaning of Regulation (EU) No 952/2013;
- (f) 'technical assistance' means any technical support related to repairs, development, manufacture, testing, maintenance, assembly or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance and assistance provided by electronic means;

⁽¹³⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (g) 'museum' means a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment;
- (h) 'competent authority' means an authority of one of the Member States, as listed in Annex I, which is, in accordance with Article 20, entitled to make a decision on an application for an authorisation or to prohibit an exporter from using the Union general export authorisation;
- (i) 'applicant' means:
- (1) the exporter, in the case of exports referred to in Article 3, 11 or 16;
 - (2) the natural or legal person, entity or body transporting the goods within the customs territory of the Union, in the case of transit referred to in Article 5;
 - (3) the supplier of technical assistance, in the case of supplies of technical assistance referred to in Article 3;
 - (4) the museum that will display the goods, in the case of imports and supplies of technical assistance referred to in Article 4;
 - (5) the supplier of technical assistance or the broker, in the case of supplies of technical assistance referred to in Article 15 or brokering services referred to in Article 19;
- (j) 'customs territory of the Union' means the territory as laid down in Article 4 of Regulation (EU) No 952/2013;
- (k) 'brokering services' means:
- (1) the negotiation or arrangement of transactions for the purchase, sale or supply of relevant goods from a third country to any other third country, or
 - (2) the selling or buying of relevant goods that are located in a third country for their transfer to another third country.
- For the purposes of this Regulation, the sole provision of ancillary services is excluded from this definition. Ancillary services are transportation, financial services, insurance or re-insurance, or general advertising or promotion;
- (l) 'broker' means any natural or legal person, entity or body, including a partnership, resident or established in a Member State that supplies services defined under point (k) from within the Union; any natural person having the nationality of a Member State, wherever resident, who supplies such services from within the Union; and any legal person, entity or body incorporated or constituted under the law of a Member State, wherever established, that supplies such services from within the Union;
- (m) 'supplier of technical assistance' means any natural or legal person, entity or body, including a partnership, resident or established in a Member State that supplies technical assistance defined under point (f) from within the Union; any natural person having the nationality of a Member State, wherever resident, who supplies such assistance from within the Union; and any legal person, entity or body incorporated or constituted under the law of a Member State, wherever established, that supplies such assistance from within the Union;
- (n) 'exporter' means any natural or legal person, entity or body, including a partnership, on whose behalf an export declaration is made, that is to say the person, entity or body, who, at the time when the export declaration is accepted, holds a contract with the consignee in the third country concerned and has the necessary power for determining the sending of the goods out of the customs territory of the Union. If no such contract has been concluded or if the holder of that contract does not act on its own behalf, the exporter means the person, entity or body who has the necessary power for determining the sending of the goods out of the customs territory of the Union. Where the benefit of a right to dispose of the goods belongs to a person, entity or body resident or established outside the Union pursuant to that contract, the exporter shall be considered to be the contracting party resident or established in the Union;
- (o) 'Union General Export Authorisation' means an authorisation for exports as defined under point (d) to certain countries which is available to all exporters who respect conditions and requirements for its use as listed in Annex V;
- (p) 'individual authorisation' means an authorisation granted to:
- (1) one specific exporter for exports as defined under point (d) to one end-user or consignee in a third country and covering one or more goods;
 - (2) one specific broker for the supply of brokering services as defined under point (k) to one end-user or consignee in a third country and covering one or more goods; or
 - (3) a natural or legal person, entity or body transporting goods within the customs territory of the Union for transit as defined under point (s);

- (q) 'global authorisation' means an authorisation granted to one specific exporter or broker in respect of a type of goods listed in Annex III or in Annex IV, which may be valid for:
- (1) exports as defined under point (d) to one or more specified end-users in one or more specified third countries;
 - (2) exports as defined under point (d) to one or more specified distributors in one or more specified third countries, where the exporter is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IV;
 - (3) the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified end-users in one or more specified third countries;
 - (4) the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified distributors in one or more specified third countries, where the broker is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IV;
- (r) 'distributor' means an economic operator performing wholesale activities in relation to goods listed in point 3.2 or 3.3 of Annex III or in Section 1 of Annex IV, such as procuring such goods from manufacturers or holding, supplying or exporting such goods; wholesale activities of such goods do not include procurement by either a hospital, a pharmacist or a medical professional for the sole purpose of supplying such goods to the public;
- (s) 'transit' means a transport within the customs territory of the Union of non-Union goods which pass through the customs territory of the Union with a destination outside the customs territory of the Union.

CHAPTER II

GOODS WHICH HAVE NO PRACTICAL USE OTHER THAN FOR THE PURPOSES OF CAPITAL PUNISHMENT, TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 3

Export prohibition

1. Any export of goods listed in Annex II shall be prohibited, irrespective of the origin of such goods.

Annex II shall comprise goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.

A supplier of technical assistance shall be prohibited from supplying technical assistance related to goods listed in Annex II to any person, entity or body in a third country, whether for consideration or not.

2. By way of derogation from paragraph 1, the competent authority may authorise an export of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the country to which the goods will be exported, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

Article 4

Import prohibition

1. Any import of goods listed in Annex II shall be prohibited, irrespective of the origin of such goods.

The acceptance by a person, entity or body in the Union of technical assistance related to goods listed in Annex II supplied from a third country, whether for consideration or not, by any person, entity or body shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise an import of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the Member State of destination, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

Article 5

Prohibition of transit

1. Any transit of goods listed in Annex II shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise a transit of goods listed in Annex II, if it is demonstrated that, in the country of destination, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

*Article 6***Prohibition of brokering services**

A broker shall be prohibited from supplying to any person, entity or body in a third country, brokering services in relation to goods listed in Annex II, irrespective of the origin of such goods.

*Article 7***Prohibition of training**

A supplier of technical assistance or a broker shall be prohibited from supplying or offering to any person, entity or body in a third country, training on the use of goods listed in Annex II.

*Article 8***Trade fairs**

It shall be prohibited for any natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, to display or offer for sale any of the goods listed in Annex II in an exhibition or fair taking place in the Union, unless it is demonstrated that, given the nature of the exhibition or fair, such display or offering for sale is neither instrumental in nor promotes the sale or supply of the relevant goods to any person, entity or body in a third country.

*Article 9***Advertising**

It shall be prohibited for any natural or legal person, entity or body, including a partnership, that is resident or established in a Member State and sells or purchases advertising space or advertising time from within the Union, for any natural person who has the nationality of a Member State and sells or purchases advertising space or advertising time from within the Union, and for any legal person, entity or body incorporated or constituted under the law of a Member State, that sells or purchases advertising space or advertising time from within the Union, to sell to or purchase from any person, entity or body in a third country advertising space in print media or on the Internet or advertising time on television or radio in relation to goods listed in Annex II.

*Article 10***National measures**

1. Without prejudice to the applicable Union rules, including the prohibition of discrimination on grounds of nationality, Member States may adopt or maintain national measures restricting transportation, financial services, insurance or re-insurance, or general advertising or promotion in relation to goods listed in Annex II.
2. Member States shall notify the Commission of any measures adopted pursuant to paragraph 1, or amendments and repeals thereof, before they enter into force.

CHAPTER III

GOODS THAT COULD BE USED FOR THE PURPOSE OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT*Article 11***Export authorisation requirement**

1. For any export of goods listed in Annex III, an authorisation shall be required, irrespective of the origin of such goods. However, no authorisation shall be required for goods which only pass through the customs territory of the Union, namely those which are not assigned a customs approved treatment or use other than the external transit procedure under Article 226 of Regulation (EU) No 952/2013, including storage of non-Union goods in a free zone.

Annex III shall only comprise the following goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment:

- (a) goods which are primarily used for law enforcement purposes;

- (b) goods which, taking into account their design and technical features, present a material risk of use for torture or other cruel, inhuman or degrading treatment or punishment.

Annex III shall not include:

- (a) firearms controlled by Regulation (EU) No 258/2012;
- (b) dual-use items controlled by Regulation (EC) No 428/2009;
- (c) goods controlled in accordance with Common Position 2008/944/CFSP.

2. Paragraph 1 shall not apply to exports to those territories of Member States which are both listed in Annex VI and are not part of the customs territory of the Union, provided that the goods are used by an authority in charge of law enforcement in both the country or territory of destination and the metropolitan part of the Member State to which that territory belongs. Customs or other relevant authorities shall have the right to verify whether this condition is met and may decide that, pending such verification, the export shall not take place.

3. Paragraph 1 shall not apply to exports to third countries, provided that the goods are used by military or civil personnel of a Member State, if such personnel is taking part in an EU or UN peace keeping or crisis management operation in the third country concerned or in an operation based on agreements between Member States and third countries in the field of defence. Customs and other relevant authorities shall have the right to verify whether this condition is met. Pending such verification, the export shall not take place.

Article 12

Criteria for granting export authorisations

1. Decisions on applications for authorisations in respect of the export of goods listed in Annex III shall be taken by the competent authorities, taking into account all relevant considerations, including in particular whether an application in respect of an essentially identical export has been dismissed by another Member State in the preceding three years and considerations about intended end-use and the risk of diversion.

2. The competent authority shall not grant any authorisation when there are reasonable grounds to believe that goods listed in Annex III might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment, by a law enforcement authority or any natural or legal person in a third country.

The competent authority shall take into account:

- (a) available international court judgements;
- (b) findings of the competent bodies of the UN, the Council of Europe and the EU, and reports of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports of goods listed in Annexes II and III applied by the country of destination, may be taken into account.

3. The rules laid down in the second and third subparagraphs shall apply to the verification of the intended end-use and the risk of diversion.

If the manufacturer of goods listed in point 3.2 or 3.3 of Annex III requests an authorisation for exporting such goods to a distributor, the competent authority shall make an assessment of the contractual arrangements made by the manufacturer and the distributor and of the measures that they are taking to ensure that these goods and, if applicable, the products in which they will be incorporated will not be used for torture or other cruel, inhuman or degrading treatment or punishment.

If an authorisation is requested for exporting goods listed in point 3.2 or 3.3 of Annex III to an end-user, the competent authority may, when assessing the risk of diversion, take into account the contractual arrangements that apply and the end-use statement signed by the end-user, if such a statement is provided. If no end-use statement is provided, it shall be up to the exporter to demonstrate who will be the end-user and what use will be made of the goods. If the exporter fails to provide sufficient information on the end-user and the end-use, the competent authority shall be deemed to have reasonable grounds to believe that the goods might be used for torture or other cruel, inhuman or degrading treatment or punishment.

4. In addition to the criteria set out in paragraph 1, when assessing an application for a global authorisation, the competent authority shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.

*Article 13***Prohibition of transit**

A natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, shall be prohibited from executing the transit of goods listed in Annex III, if he, she or it knows that any part of a shipment of such goods is intended to be used for torture or other cruel, inhuman or degrading treatment or punishment in a third country.

*Article 14***National measures**

1. Notwithstanding Articles 11 and 12, a Member State may adopt or maintain a prohibition on the export and import of leg irons, gang chains and portable electric shock devices.
2. A Member State may impose an authorisation requirement on the export of handcuffs which have an overall dimension including chains, measured from the outer edge of one cuff to the outer edge of the other cuff, exceeding 240 mm when locked. The Member State concerned shall apply Chapters III and V to such handcuffs.
3. Member States shall notify the Commission of any measures adopted pursuant to paragraphs 1 and 2 before they enter into force.

*Article 15***Authorisation requirement for certain services**

1. An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services to any person, entity or body in a third country, whether for consideration or not:
 - (a) technical assistance related to goods listed in Annex III, irrespective of the origin of such goods; and
 - (b) brokering services related to goods listed in Annex III, irrespective of the origin of such goods.
2. When deciding on applications for an authorisation for the supply of brokering services concerning goods listed in Annex III, Article 12 shall apply *mutatis mutandis*.

When deciding on applications for an authorisation for the supply of technical assistance related to goods listed in Annex III, the criteria set out in Article 12 shall be taken into account to assess:

- (a) whether the technical assistance would be supplied to a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment; and
 - (b) whether the technical assistance would be used to repair, develop, manufacture, test, maintain or assemble goods listed in Annex III for, or to supply technical assistance to, a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment.
3. Paragraph 1 shall not apply to the supply of technical assistance, if
 - (a) the technical assistance is supplied to a law enforcement authority of a Member State or to military or civil personnel of a Member State as described in the first sentence of Article 11(3);
 - (b) the technical assistance consists of providing information that is in the public domain; or
 - (c) the technical assistance is the minimum necessary for the installation, operation, maintenance or repair of those goods listed in Annex III whose export has been authorised by a competent authority in accordance with this Regulation.
 4. Notwithstanding paragraph 1, a Member State may maintain a prohibition on the supply of brokering services related to leg irons, gang chains and portable electric shock devices. Where a Member State maintains such a prohibition, it shall inform the Commission if measures previously adopted and notified in accordance with Article 7a(4) of Regulation (EC) No 1236/2005 are amended or repealed.

CHAPTER IV

GOODS THAT COULD BE USED FOR THE PURPOSE OF CAPITAL PUNISHMENT*Article 16***Export authorisation requirement**

1. For any export of goods listed in Annex IV, an authorisation shall be required irrespective of the origin of such goods. However, no authorisation shall be required for goods which only pass through the customs territory of the Union, namely those which are not assigned a customs approved treatment or use other than the external transit procedure under Article 226 of Regulation (EU) No 952/2013, including storage of non-Union goods in a free zone.

Annex IV shall only comprise goods that could be used for the purpose of capital punishment and have been approved or actually used for capital punishment by one or more third countries that have not abolished capital punishment. It shall not include:

- (a) firearms controlled by Regulation (EU) No 258/2012;
- (b) dual-use items controlled by Regulation (EC) No 428/2009 and
- (c) goods controlled in accordance with Common Position 2008/944/CFSP.

2. Where the export of medicinal products requires an export authorisation pursuant to this Regulation and the export is also subject to authorisation requirements in accordance with international conventions controlling narcotic drugs and psychotropic substances, such as the 1971 Convention on Psychotropic Substances, Member States may use a single procedure to carry out the obligations imposed on them by this Regulation and by the relevant convention.

*Article 17***Criteria for granting export authorisations**

1. Decisions on applications for authorisations in respect of the export of goods listed in Annex IV shall be taken by the competent authorities, taking into account all relevant considerations, including in particular whether an application in respect of an essentially identical export has been dismissed by another Member State in the preceding three years and considerations about intended end-use and the risk of diversion.

2. The competent authority shall not grant any authorisation when there are reasonable grounds to believe that the goods listed in Annex IV might be used for capital punishment in a third country.

3. The rules in the second, third and fourth subparagraphs shall apply to the verification of the intended end-use and the risk of diversion.

If the manufacturer of goods listed in Section 1 of Annex IV requests an authorisation for exporting such products to a distributor, the competent authority shall make an assessment of the contractual arrangements made by the manufacturer and the distributor and of the measures that they are taking to ensure that the goods will not be used for capital punishment.

If an authorisation is requested for exporting goods listed in Section 1 of Annex IV to an end-user, the competent authority may, when assessing the risk of diversion, take into account the contractual arrangements that apply and the end-use statement signed by the end-user, if such a statement is provided. If no end-use statement is provided, it shall be up to the exporter to demonstrate who will be the end-user and what use will be made of the goods. If the exporter fails to provide sufficient information on the end-user and the end-use, the competent authority shall be deemed to have reasonable grounds to believe that the goods might be used for capital punishment.

The Commission, in cooperation with competent authorities of the Member States, may adopt best practice guidelines on the assessment of end-use and of the purpose for which technical assistance would be used.

4. In addition to the criteria set out in paragraph 1, when assessing an application for a global authorisation the competent authority shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.

*Article 18***Prohibition of transit**

A natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, shall be prohibited from executing the transit of goods listed in Annex IV, if he, she or it knows that any part of a shipment of such goods is intended to be used for capital punishment in a third country.

*Article 19***Authorisation requirement for certain services**

1. An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services to any person, entity or body in a third country whether for consideration or not:
 - (a) technical assistance related to goods listed in Annex IV, irrespective of the origin of such goods; and
 - (b) brokering services related to goods listed in Annex IV, irrespective of the origin of such goods.
2. When deciding on applications for an authorisation for the supply of brokering services concerning goods listed in Annex IV Article 17 shall apply *mutatis mutandis*.

When deciding on applications for an authorisation for the supply of technical assistance related to goods listed in Annex IV, the criteria set out in Article 17 shall be taken into account to assess:

- (a) whether the technical assistance would be supplied to a person, entity or body that might use the goods to which the technical assistance relates for capital punishment; and
 - (b) whether the technical assistance would be used to repair, develop, manufacture, test, maintain or assemble goods listed in Annex IV for, or supply technical assistance to, a person, entity or body that might use the goods to which the technical assistance relates for capital punishment.
3. Paragraph 1 shall not apply to the supply of technical assistance, if
 - (a) the technical assistance consists of providing information that is in the public domain; or
 - (b) the technical assistance is the minimum necessary for the installation, operation, maintenance or repair of those goods listed in Annex IV whose export has been authorised by a competent authority in accordance with this Regulation.

CHAPTER V

AUTHORISATION PROCEDURES*Article 20***Types of authorisations and issuing authorities**

1. A Union General Export Authorisation for certain exports as set out in Annex V is established by this Regulation.

The competent authority of the Member State where the exporter is resident or established may prohibit the exporter from using this authorisation, if there is reasonable suspicion about the exporter's ability to comply with the terms of this authorisation or with a provision of the export control legislation.

The competent authorities of the Member States shall exchange information on all exporters deprived of the right to use the Union General Export Authorisation, unless they determine that a specific exporter will not attempt to export goods listed in Annex IV through another Member State. A secure and encrypted system for exchange of information shall be used for this purpose.

2. An authorisation for exports other than those referred to in paragraph 1 for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the exporter is resident or established, as listed in Annex I. Such authorisation may be an individual or a global authorisation, if it concerns goods listed in Annex III or in Annex IV. An authorisation concerning goods listed in Annex II shall be an individual authorisation.
3. An authorisation for transit of goods listed in Annex II shall be granted by the competent authority of the Member State where the natural or legal person, entity or body transporting the goods within the customs territory of the Union is resident or established, as listed in Annex I. If that person, entity or body is not resident or established in a Member State, an authorisation shall be granted by the competent authority of the Member State in which the entry of goods into the customs territory of the Union takes place. Such an authorisation shall be an individual authorisation.
4. An authorisation for imports for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the museum is established, as listed in Annex I. An authorisation concerning goods listed in Annex II shall be an individual authorisation.

5. An authorisation for the supply of technical assistance related to goods listed in Annex II shall be granted by:
- the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted, if the assistance is to be supplied to a museum in a third country; or
 - the competent authority of the Member State where the museum is established, as listed in Annex I, if the assistance is to be supplied to a museum in the Union.
6. An authorisation for the supply of technical assistance related to goods listed in Annex III or in Annex IV shall be granted by the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted.
7. An authorisation for the supply of brokering services related to goods listed in Annex III or in Annex IV shall be granted by the competent authority of the Member State where the broker is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the broker is a national or under whose law it has been incorporated or constituted. Such an authorisation shall be granted for a set quantity of specific goods moving between two or more third countries. The location of the goods in the originating third country, the end-user and its exact location shall be clearly identified.
8. Applicants shall supply the competent authority with all relevant information required for their applications for an individual or global authorisation for exports or for brokering services, for an authorisation for technical assistance, for an individual import authorisation or for an individual authorisation for transit.

As regards exports, the competent authorities shall receive complete information in particular on the end-user, the country of destination and the end-use of the goods.

As regards brokering services the competent authorities shall in particular receive details of the location of the goods in the originating third country, a clear description of the goods and the quantity involved, third parties involved in the transaction, the third country of destination, the end-user in that country and its exact location.

The granting of an authorisation may be subject to an end-use statement, if appropriate.

9. By way of derogation from paragraph 8, where a manufacturer or a manufacturer's representative is to export or to sell and transfer goods included in point 3.2 or 3.3 of Annex III or in Section 1 of Annex IV to a distributor in a third country, the manufacturer shall provide information on the arrangements made and the measures taken to prevent the goods included in point 3.2 or 3.3 of Annex III from being used for torture or other cruel, inhuman or degrading treatment or punishment or to prevent the goods included in Section 1 of Annex IV from being used for capital punishment, on the country of destination and, if available, information on the end-use and the end-users of the goods.
10. Upon request of a national preventive mechanism established under the Optional Protocol to the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the competent authorities may decide to make the information they have received from an applicant on the country of destination, the consignee, the end-use and the end-users or, where relevant, the distributor and the arrangements and measures referred to in paragraph 9, available to the requesting national preventive mechanism. The competent authorities shall hear the applicant before the information is made available and may impose restrictions on the use that can be made of the information. The competent authorities shall make their decisions in accordance with national laws and practice.
11. Member States shall process requests for individual or global authorisations within a period of time to be determined by national law or practice.

Article 21

Authorisations

1. Authorisations for export, import or transit shall be issued on a form consistent with the model set out in Annex VII. Authorisations concerning brokering services shall be issued on a form consistent with the model set out in Annex VIII. Authorisations concerning technical assistance shall be issued on a form consistent with the model set out in Annex IX. Such authorisations shall be valid throughout the Union. The period of validity of an authorisation shall be from three to twelve months, with a possible extension of up to twelve months. The period of validity of a global authorisation shall be from one year to three years with a possible extension of up to two years.

2. An authorisation for export granted in accordance with Article 12 or with Article 17 implies an authorisation for the exporter to supply technical assistance to the end-user to the extent that such assistance is necessary for the installation, operation, maintenance or repair of those goods whose export is authorised.
3. Authorisations may be issued by electronic means. The specific procedures shall be established on a national basis. Member States availing themselves of this option shall inform the Commission.
4. Authorisations for export, import, transit, the supply of technical assistance or the supply of brokering services shall be subject to any requirements and conditions the competent authority deems appropriate.
5. The competent authorities, acting in accordance with this Regulation, may refuse to grant an authorisation and may annul, suspend, modify or revoke an authorisation which they have already granted.

Article 22

Customs formalities

1. When completing customs formalities, the exporter or importer shall submit the duly completed form set out in Annex VII as proof that the necessary authorisation for the export or import concerned has been obtained. If the document is not filled out in an official language of the Member State where the customs formalities are being completed, the exporter or importer may be required to provide a translation into such official language.
2. If a customs declaration is made concerning goods listed in Annex II, III or IV and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and shall make the exporter or importer aware of the possibility to apply for an authorisation pursuant to this Regulation. If no application for an authorisation is made within six months of the detention, or if the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods in accordance with applicable national law.

Article 23

Notification and consultation requirement

1. A Member State shall notify the other Member States and the Commission if its competent authorities, as listed in Annex I, take a decision dismissing an application for an authorisation under this Regulation or if they annul an authorisation they have granted. Such notification shall be made not later than 30 days following the date of the decision or annulment.
2. The competent authority shall, through diplomatic channels where required or appropriate, consult the authority or authorities which, in the preceding three years, dismissed an application for authorisation of an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services under this Regulation, if it receives an application concerning an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services involving an essentially identical transaction referred to in such earlier application and considers that an authorisation should, nevertheless, be granted.
3. If, after the consultations referred to in paragraph 2, the competent authority decides to grant an authorisation, the relevant Member State shall immediately inform the other Member States and the Commission of its decision and explain the reasons for its decision, submitting supporting information as appropriate.
4. Where a refusal to grant an authorisation is based on a national prohibition in accordance with Article 14(1) or Article 15(4), it shall not constitute a decision dismissing an application within the meaning of paragraph 1 of this Article.
5. All notifications required under this Article shall be made via a secure and encrypted system for exchange of information.

CHAPTER VI

GENERAL AND FINAL PROVISIONS

Article 24

Amendment of Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 29, to amend Annexes I, II, III, IV, V, VI, VII, VIII and IX. The data in Annex I regarding competent authorities of the Member States shall be amended on the basis of information supplied by the Member States.

Where, in the case of amendment of Annex II, III, IV or V, imperative grounds of urgency so require, the procedure provided for in Article 30 shall apply to delegated acts adopted pursuant to this Article.

Article 25

Requests for adding goods to one of the lists of goods

1. Each Member State may address a duly substantiated request to the Commission to add goods designed or marketed for law enforcement to Annex II, Annex III or Annex IV. Such a request shall include information on:

- (a) the design and characteristics of the goods;
- (b) all the purposes for which they can be used; and
- (c) the international or domestic rules that would be broken if the goods were to be used for law enforcement.

When addressing its request to the Commission, the requesting Member State shall also forward that request to the other Member States.

2. The Commission may, within three months of the receipt of the request, ask the requesting Member State to provide supplementary information, if it considers that the request fails to address one or more relevant points or that additional information on one or more relevant points is necessary. It shall communicate the points on which supplementary information needs to be provided. The Commission shall forward its questions to the other Member States. The other Member States may also provide the Commission with further information for the assessment of the request.

3. If it considers that there is no need to ask for supplementary information or, where applicable, upon receipt of the supplementary information it has requested, the Commission shall, within 20 weeks of the receipt of the request or the receipt of supplementary information, respectively, commence the procedure for the adoption of the requested amendment or inform the requesting Member State of the reasons for not doing so.

Article 26

Exchange of information between Member States' authorities and the Commission

1. Without prejudice to Article 23, the Commission and the Member States shall, upon request, inform each other of the measures taken under this Regulation and supply each other with any relevant information at their disposal in connection with this Regulation, in particular information on authorisations granted and refused.

2. Relevant information on authorisations granted and refused shall comprise at least the type of decision, the grounds for the decision or a summary thereof, the names of the consignees and, if they are not the same, of the end-users as well as the goods concerned.

3. Member States, if possible in cooperation with the Commission, shall make a public, annual activity report, providing information on the number of applications received, on the goods and countries concerned by these applications, and on the decisions they have taken on these applications. This report shall not include information the disclosure of which a Member State considers to be contrary to the essential interests of its security.

4. The Commission shall prepare an annual report comprised of the annual activity reports referred to in paragraph 3. That annual report shall be made publicly available.

5. Except for the supply of information mentioned in paragraph 2 to the authorities of the other Member State and to the Commission, this Article shall be without prejudice to applicable national rules concerning confidentiality and professional secrecy.

6. The refusal to grant an authorisation, if it is based on a national prohibition adopted in accordance with Article 14(1), shall not constitute an authorisation refused within the meaning of paragraphs 1, 2 and 3 of this Article.

Article 27

Processing of personal data

Personal data shall be processed and exchanged in accordance with the rules laid down in Regulation (EU) 2016/679 and Regulation (EU) 2018/1725.

*Article 28***Use of information**

Without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁴⁾ and national legislation on public access to documents, information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

*Article 29***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 24 shall be conferred on the Commission for a period of five years from 16 December 2016. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 24 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 24 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 30***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 29(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

*Article 31***Anti-Torture Coordination Group**

1. An Anti-Torture Coordination Group chaired by a representative of the Commission shall be established. Each Member State shall appoint a representative to that group.
2. The Anti-Torture Coordination Group shall examine any questions concerning the application of this Regulation, including, without limitation, the exchange of information on administrative practices and any questions which may be raised either by the chair or by a representative of a Member State.

⁽¹⁴⁾ 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).

3. The Anti-Torture Coordination Group may, whenever it considers it to be necessary, consult exporters, brokers, suppliers of technical assistance and other relevant stakeholders concerned by this Regulation.
4. The Commission shall submit an annual report in writing to the European Parliament on the activities, examinations and consultations of the Anti-Torture Coordination Group.

The annual report shall be drawn up paying due regard to the need not to undermine the commercial interests of natural or legal persons. The discussions in the Anti-Torture Coordination Group shall be kept confidential.

Article 32

Review

1. By 31 July 2020, and every five years thereafter, the Commission shall review the implementation of this Regulation and present a comprehensive implementation and impact assessment report to the European Parliament and to the Council, which may include proposals for its amendment. The review will assess the need to include the activities of Union nationals abroad. Member States shall provide to the Commission all appropriate information for the preparation of the report.
2. Special sections of the report shall deal with:
 - (a) the Anti-Torture Coordination Group and its activities. The report shall be drawn up paying due regard to the need not to undermine the commercial interests of natural or legal persons. The discussions in the group shall be kept confidential;
 - (b) information on the measures taken by the Member States pursuant to Article 33(1) and notified to the Commission pursuant to Article 33(2).

Article 33

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.
2. Member States shall notify the Commission without delay of any amendment affecting rules on penalties notified in accordance with Article 17(2) of Regulation (EC) No 1236/2005.

Article 34

Territorial scope

1. This Regulation shall have the same territorial scope of application as the Treaties, except for the first subparagraph of Article 3(1), the first subparagraph of Article 4(1), Articles 5, 11, 13, 14, 16 and 18, Article 20(1) to (4) and Article 22, which shall apply to:
 - the customs territory of the Union;
 - the Spanish territories of Ceuta and Melilla;
 - the German territory of Helgoland.
2. For the purpose of this Regulation Ceuta, Helgoland and Melilla shall be treated as part of the customs territory of the Union.

Article 35

Repeal

Regulation (EC) No 1236/2005 is repealed.

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

*Article 36***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 all Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

ANNEX I

LIST OF AUTHORITIES REFERRED TO IN ARTICLES 20 AND 23, AND ADDRESS FOR NOTIFICATIONS TO THE EUROPEAN COMMISSION

A. Authorities of the Member States

BELGIUM

Federale Overheidsdienst Economie, K.M.O., Middenstand en Energie
Algemene Directie Economische Analyses en Internationale Economie
Dienst Vergunningen
Vooruitgangstraat 50
B-1210 Brussel
BELGIË

Service public fédéral économie, PME, classes moyennes et énergie
Direction générale des analyses économiques et de l'économie internationale
Service licences
Rue du Progrès 50
B-1210 Bruxelles
BELGIQUE

Tel. +32 22776713, +32 22775459
Fax +32 22775063
E-mail: frieda.coosemans@economie.fgov.be
johan.debontridder@economie.fgov.be

BULGARIA

Министерство на икономиката
ул. 'Славянска' № 8
1052 София/Sofia
БЪЛГАРИЯ/BULGARIA

Ministry of Economy
8, Slavyanska Str.
1052 Sofia
BULGARIA

Tel. +359 29407771
Fax +359 29880727
E-mail: exportcontrol@mi.government.bg

CZECH REPUBLIC

Ministerstvo průmyslu a obchodu
Licenční správa
Na Františku 32
110 15 Praha 1
ČESKÁ REPUBLIKA

Tel. +420 224907638
Fax +420 224214558
E-mail: dual@mpo.cz

DENMARK

Annex III, No 2 and 3

Justitsministeriet
Slotsholmsgade 10
DK-1216 København K
DANMARK
Tel. +45 72268400
Fax +45 33933510
E-mail: jm@jm.dk

Annex II and Annex III, No 1

Erhvervs- og Vækstministeriet
Erhvervsstyrelsen
Eksportkontrol
Langelinie Allé 17
DK-2100 København Ø
DANMARK
Tel. +45 35291000
Fax +45 35291001
E-mail: eksportkontrol@erst.dk

GERMANY

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29—35
D-65760 Eschborn
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Fax +49 6196 908 1800
E-mail: ausfuhrkontrolle@bafa.bund.de

ESTONIA

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Islandi väljak 1
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Fax +372 6377199
E-mail: stratkom@vm.ee

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An Roinn Gnó, Fiontar agus Nuálaíochta
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Baile Átha Cliath 2
ÉIRE
Tel. +353 16312121
Fax +353 16312562
E-mail: exportcontrol@djei.ie

Licensing Unit
Department of Jobs, Enterprise and Innovation
23 Kildare Street
Dublin 2
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Fax +353 16312562
E-mail: exportcontrol@djei.ie

GREECE

Υπουργείο Ανάπτυξης, Ανταγωνιστικότητας, Υποδομών, Μεταφορών και Δικτύων
Γενική Διεύθυνση Διεθνούς Οικονομικής Πολιτικής
Διεύθυνση Καθεστώτων Εισαγωγών-Εξαγωγών, Εμπορικής Άμυνας
Ερμού και Κορνάρου 1,
GR-105 63 Αθήνα/Athens
ΕΛΛΑΔΑ/GREECE

Ministry of Development, Competitiveness, Infrastructure, Transport and Networks
General Directorate for International Economic Policy
Directorate of Import-Export Regimes, Trade Defence Instruments
Ermou and Kornarou 1,
GR-105 63 Athens
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Tel. +30 2103286021-22, +30 2103286051-47
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Secretaría de Estado de Comercio
Ministerio de Economía y Competitividad
Paseo de la Castellana 162, planta 7
E-28046 Madrid
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Fax +34 913492470
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FRANCE

Ministère des finances et des comptes publics
Direction générale des douanes et droits indirects
Bureau E2
11 Rue des Deux Communes
F-93558 Montreuil Cedex
FRANCE
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E-mail: dg-e2@douane.finances.gouv.fr

CROATIA

Ministarstvo vanjskih i europskih poslova
Samostalni sektor za trgovinsku politiku i gospodarsku multilateralu
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CYPRUS

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Υπηρεσία Εμπορίου
Κλάδος Έκδοσης Αδειών Εισαγωγών/Εξαγωγών
Ανδρέα Αραούζου 6
CY-1421 Λευκωσία
ΚΥΠΡΟΣ/CYPRUS

Ministry of Energy, Commerce, Industry and Tourism
Trade Service
Import/Export Licensing Section
6 Andreas Araouzos Street
CY-1421 Nicosia
CYPRUS

Tel. +357 22867100, +357 22867197, +357 22867332
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LITHUANIA

Policijos departamento prie Vidaus reikalų ministerijos
Viešosios policijos valdybos Licencijavimo skyrius
Saltoniškių g. 19
LT-08105 Vilnius
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LUXEMBOURG

Ministère de l'Économie
Office des Licences
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E-mail: office.licences@eco.etat.lu

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NETHERLANDS

Ministerie van Buitenlandse Zaken
Directoraat-Generaal Buitenlandse Economische Betrekkingen
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AUSTRIA

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Fax +43 1711008366
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POLAND

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Departament Handlu i Usług
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Fax +48 226934021
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PORTUGAL

Ministério das Finanças
AT- Autoridade Tributária e Aduaneira
Direcção de Serviços de Licenciamento
Rua da Alfândega, n. 5, r/c
P-1149-006 Lisboa
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ROMANIA

Ministerul Economiei, Comerțului și Turismului
Departamentul pentru Comerț Exterior și Relații Internaționale
Direcția Politici Comerciale
Calea Victoriei nr. 152
București, sector 1
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SLOVENIA

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Direktorat za notranji trg, Sektor za trgovinsko politiko
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FI-00023 Valtioneuvosto
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Inrikesministeriet
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PB 26
FI-00023 Statsrådet
SUOMI/FINLAND

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E-mail: kirjaamo@intermin.fi

SWEDEN

Kommerskollegium
PO Box 6803
SE-113 86 Stockholm
SVERIGE
Tel. +46 86904800
Fax +46 8306759
E-mail: registrator@kommers.se

UNITED KINGDOM

Import of goods listed in Annex II:
Department for Business, Innovation and Skills (BIS)
Import Licensing Branch (ILB)
E-mail: enquiries.ilb@bis.gsi.gov.uk

Export of goods listed in Annexes II or III, and supply of technical assistance related to goods listed in Annex II as referred to in Articles 3(1) and (4)(1):

Department for Business, Innovation and Skills (BIS)

Export Control Organisation

1 Victoria Street

London

SW1H 0ET

UNITED KINGDOM

Tel. +44 2072154594

Fax +44 2072152635

E-mail: eco.help@bis.gsi.gov.uk

B. Address for notifications to the European Commission

European Commission

Service for Foreign Policy Instruments

Office EEAS 7/99

B-1049 Bruxelles/Brussel

BELGIUM

E-mail: relex-sanctions@ec.europa.eu

ANNEX II

LIST OF GOODS REFERRED TO IN ARTICLES 3 AND 4

Introductory Note:

The 'CN codes' in this Annex refer to codes specified in Part Two of Annex I to Council Regulation (EEC) No 2658/87 ⁽¹⁾.

Where 'ex' precedes the CN code, the goods covered by this Regulation constitute only a part of the scope of the CN code and are determined by both the description given in this Annex and the scope of the CN code.

Notes:

1. Items 1.3 and 1.4 in Section 1 concerning goods designed for the execution of human beings do not cover medical-technical goods.
2. The object of the controls contained in this Annex should not be defeated by the export of any non-controlled goods (including plant) containing one or more controlled components when the controlled component or components are the principal element of the goods and can feasibly be removed or used for other purposes.

NB: In judging whether the controlled component or components are to be considered the principal element, it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured.

CN code	Description
	1. Goods designed for the execution of human beings, as follows:
ex 4421 90 97 ex 8208 90 00	1.1. Gallows, guillotines and blades for guillotines
ex 8543 70 90 ex 9401 79 00 ex 9401 80 00 ex 9402 10 00	1.2. Electric chairs for the purpose of execution of human beings
ex 9406 00 38 ex 9406 00 80	1.3. Airtight vaults, made of e.g. steel and glass, designed for the purpose of execution of human beings by the administration of a lethal gas or substance
ex 8413 81 00 ex 9018 90 50 ex 9018 90 60 ex 9018 90 84	1.4. Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance
	2. Goods which are not suitable for use by law enforcement authorities to restrain human beings, as follows:
ex 8543 70 90	2.1. Electric shock devices which are intended to be worn on the body by a restrained individual, such as belts, sleeves and cuffs, designed for restraining human beings by the administration of electric shocks
ex 7326 90 98 ex 7616 99 90 ex 8301 50 00 ex 3926 90 97 ex 4203 30 00 ex 4203 40 00 ex 4205 00 90	2.2. Thumb-cuffs, finger-cuffs, thumbscrews and finger-screws Note: This item includes both serrated and non-serrated cuffs and screws

⁽¹⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

CN code	Description
ex 7326 90 98 ex 7616 99 90 ex 8301 50 00 ex 3926 90 97 ex 4203 30 00 ex 4203 40 00 ex 4205 00 90 ex 6217 10 00 ex 6307 90 98	2.3. Bar fetters, weighted leg restraints and gang chains comprising bar fetters or weighted leg restraints Notes: 1. Bar fetters are shackles or ankle rings fitted with a locking mechanism, linked by a rigid bar which is typically made of metal 2. This item includes bar fetters and weighted leg restraints which are linked to ordinary handcuffs by means of a chain
ex 7326 90 98 ex 7616 99 90 ex 8301 50 00 ex 3926 90 97 ex 4203 30 00 ex 4203 40 00 ex 4205 00 90 ex 6217 10 00 ex 6307 90 98	2.4. Cuffs for restraining human beings, designed to be anchored to a wall, floor or ceiling
ex 9401 61 00 ex 9401 69 00 ex 9401 71 00 ex 9401 79 00 ex 9401 80 00 ex 9402 10 00	2.5. Restraint chairs: chairs fitted with shackles or other devices to restrain a human being Note: This item does not prohibit chairs only fitted with straps or belts
ex 9402 90 00 ex 9403 20 20 ex 9403 20 80 ex 9403 50 00 ex 9403 70 00 ex 9403 81 00 ex 9403 89 00	2.6. Shackle boards and shackle beds: boards and beds fitted with shackles or other devices to restrain a human being Note: This item does not prohibit boards and beds only fitted with straps or belts
ex 9402 90 00 ex 9403 20 20 ex 9403 50 00 ex 9403 70 00 ex 9403 81 00 ex 9403 89 00	2.7. Cage beds: beds comprising a cage (four sides and a ceiling) or similar structure enclosing a human being within the confines of the bed, the ceiling or one or more of the sides of which are fitted with metal or other bars, and which can only be opened from outside
ex 9402 90 00 ex 9403 20 20 ex 9403 50 00 ex 9403 70 00 ex 9403 81 00 ex 9403 89 00	2.8. Net beds: beds comprising a cage (four sides and a ceiling) or similar structure enclosing a human being within the confines of the bed, the ceiling or one or more sides of which are fitted with nets, and which can only be opened from outside
	3. Portable devices which are not suitable for use by law enforcement authorities for the purpose of riot control or self-protection, as follows:
ex 9304 00 00	3.1. Batons or truncheons made of metal or other material having a shaft with metal spikes

CN code	Description
ex 3926 90 97 ex 7326 90 98	3.2. Shields with metal spikes
	4. Whips as follows:
ex 6602 00 00	4.1. Whips comprising multiple lashes or thongs, such as knouts or cats o'nine tails
ex 6602 00 00	4.2. Whips having one or more lashes or thongs fitted with barbs, hooks, spikes, metal wire or similar objects enhancing the impact of the lash or thong

ANNEX III

LIST OF GOODS REFERRED TO IN ARTICLE 11

Introductory Note:

The CN codes in this Annex refer to codes specified in Part Two of Annex I to Regulation (EEC) No 2658/87.

Where 'ex' precedes the CN code, the goods covered by this Regulation constitute only a part of the scope of the CN code and are determined by both the description given in this Annex and the scope of the CN code.

Notes:

1. The object of the controls contained in this Annex should not be defeated by the export of any non-controlled goods (including plant) containing one or more controlled components when the controlled component or components are the principal element of the goods and can feasibly be removed or used for other purposes.

NB: In judging whether the controlled component or components are to be considered the principal element, it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured.

2. In some instances chemicals are listed by name and CAS number. The list applies to chemicals of the same structural formula (including hydrates) regardless of name or CAS number. CAS numbers are shown to assist in identifying a particular chemical or mixture, irrespective of nomenclature. CAS numbers cannot be used as unique identifiers because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

CN code	Description
	1. Goods designed for restraining human beings, as follows:
ex 7326 90 98	1.1. Shackles and gang chains
ex 7616 99 90	Notes:
ex 8301 50 00	1. Shackles are restraints consisting of two cuffs or rings fitted with a locking mechanism, with a connecting chain or bar
ex 3926 90 97	2. This item does not control the leg restraints and gang chains prohibited by item 2.3 of Annex II
ex 4203 30 00	3. This item does not control 'ordinary handcuffs'. Ordinary handcuffs which meet all the following conditions:
ex 4203 40 00	— their overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, is between 150 and 280 mm when both cuffs are locked;
ex 4205 00 90	— the inside circumference of each cuff is a maximum of 165 mm when the ratchet is engaged at the last notch entering the locking mechanism;
ex 6217 10 00	— the inside circumference of each cuff is a minimum of 200 mm when the ratchet is engaged at the first notch entering the locking mechanism; and
ex 6307 90 98	— the cuffs have not been modified to cause physical pain or suffering.
ex 7326 90 98	1.2. Individual cuffs or rings fitted with a locking mechanism, having an inside circumference exceeding 165 mm when the ratchet is engaged at the last notch entering the locking mechanism
ex 7616 99 90	Note:
ex 8301 50 00	This item includes neck restraints and other individual cuffs or rings fitted with a locking mechanism, which are linked to ordinary handcuffs by means of a chain
ex 3926 90 97	
ex 4203 30 00	
ex 4203 40 00	
ex 4205 00 90	
ex 6217 10 00	
ex 6307 90 98	

CN code	Description
ex 6505 00 10 ex 6505 00 90 ex 6506 91 00 ex 6506 99 10 ex 6506 99 90	1.3. Spit hoods: hoods, including hoods made of netting, comprising a cover of the mouth which prevents spitting Note: This item includes spit hoods which are linked to ordinary handcuffs by means of a chain
	2. Weapons and devices designed for the purpose of riot control or self-protection, as follows:
ex 8543 70 90 ex 9304 00 00	2.1. Portable electric discharge weapons that can target only one individual each time an electric shock is administered, including but not limited to electric shock batons, electric shock shields, stun guns and electric shock dart guns Notes: 1. This item does not control electric shock belts and other devices falling within item 2.1 of Annex II 2. This item does not control individual electronic shock devices when accompanying their user for the user's own personal protection
ex 8543 90 00 ex 9305 99 00	2.2. Kits containing all essential components for assembly of portable electric discharge weapons controlled by item 2.1 Note: The following goods are considered to be essential components: — the unit producing an electric shock, — the switch, whether or not on a remote control, and — the electrodes or, where applicable, the wires through which the electrical shock is to be administered
ex 8543 70 90 ex 9304 00 00	2.3. Fixed or mountable electric discharge weapons that cover a wide area and can target multiple individuals with electrical shocks
	3. Weapons and equipment disseminating incapacitating or irritating chemical substances for the purpose of riot control or self-protection and certain related substances, as follows:
ex 8424 20 00 ex 8424 89 00 ex 9304 00 00	3.1. Portable weapons and equipment which either administer a dose of an incapacitating or irritating chemical substance that targets one individual or disseminate a dose of such substance affecting a small area, e.g. in the form of a spray fog or cloud, when the chemical substance is administered or disseminated Notes: 1. This item does not control equipment controlled by item ML7(e) of the Common Military List of the European Union ⁽¹⁾ 2. This item does not control individual portable equipment, even if containing a chemical substance, when accompanying their user for the user's own personal protection 3. In addition to relevant chemical substances, such as riot control agents or PAVA, the goods controlled by items 3.3 and 3.4 shall be deemed to be incapacitating or irritating chemical substances
ex 2924 29 98	3.2. Pelargonic acid vanillylamide (PAVA) (CAS RN 2444-46-4)
ex 3301 90 30	3.3. Oleoresin capsicum (OC) (CAS RN 8023-77-6)

⁽¹⁾ Latest version adopted by the Council on 26 February 2018 (OJ C 98, 15.3.2018, p. 1).

CN code	Description
ex 2924 29 98 ex 2939 99 00 ex 3301 90 30 ex 3302 10 90	3.4. Mixtures containing at least 0,3 % by weight of PAVA or OC and a solvent (such as ethanol, 1-propanol or hexane), which could be administered as such as incapacitating or irritating agents, in particular in aerosols and in liquid form, or used for manufacturing of incapacitating or irritating agents
ex 3302 90 10 ex 3302 90 90	Notes: 1. This item does not control sauces and preparations therefor, soups or preparations therefor and mixed condiments or seasonings, provided that PAVA or OC is not the only constituent flavour in them
ex 3824 90 97	2. This item does not control medicinal products for which a marketing authorisation has been granted in accordance with Union law ⁽²⁾
ex 8424 20 00 ex 8424 89 00	3.5. Fixed equipment for the dissemination of incapacitating or irritating chemical substances, which can be attached to a wall or to a ceiling inside a building, comprises a canister of irritating or incapacitating chemical agents and is activated using a remote control system
	Note: In addition to relevant chemical substances, such as riot control agents or PAVA, the goods controlled by items 3.3 and 3.4 shall be deemed to be incapacitating or irritating chemical substances
ex 8424 20 00 ex 8424 89 00 ex 9304 00 00	3.6. Fixed or mountable equipment for the dissemination of incapacitating or irritating chemical agents that covers a wide area and is not designed to be attached to a wall or to a ceiling inside a building
	Notes: 1. This item does not control equipment controlled by item ML7(e) of the Common Military List of the European Union 2. This item also controls water cannons 3. In addition to relevant chemical substances, such as riot control agents or PAVA, the goods controlled by items 3.3 and 3.4 shall be deemed to be incapacitating or irritating chemical substances

⁽²⁾ See in particular Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1) and Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

ANNEX IV

GOODS THAT COULD BE USED FOR THE PURPOSE OF CAPITAL PUNISHMENT REFERRED TO IN ARTICLE 16

CN code	Description
	1. Products which could be used for the execution of human beings by means of lethal injection, as follows:
	1.1. Short and intermediate acting barbiturate anaesthetic agents including, but not limited to:
ex 2933 53 90 [(a) to (f)]	(a) amobarbital (CAS RN 57-43-2)
	(b) amobarbital sodium salt (CAS RN 64-43-7)
ex 2933 59 95 [(g) and (h)]	(c) pentobarbital (CAS RN 76-74-4)
	(d) pentobarbital sodium salt (CAS 57-33-0)
	(e) secobarbital (CAS RN 76-73-3)
	(f) secobarbital sodium salt (CAS RN 309-43-3)
	(g) thiopental (CAS RN 76-75-5)
	(h) thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium
ex 3003 90 00	Note:
ex 3004 90 00	This item also controls products containing one of the anaesthetic agents listed under short or intermediate acting barbiturate anaesthetic agents.
ex 3824 90 96	

ANNEX V

UNION GENERAL EXPORT AUTHORISATION EU GEA 2019/125

PART 1

Goods

This general export authorisation covers the goods listed in any entry in Annex IV to Regulation (EU) 2019/125 of the European Parliament and of the Council ⁽¹⁾.

It also covers supplies of technical assistance to the end-user to the extent that such assistance is necessary for the installation, operation, maintenance or repair of those goods whose export is authorised, if such assistance is provided by the exporter.

PART 2

Destinations

An export authorisation under Regulation (EU) 2019/125 is not required for supplies to a country or territory that is part of the customs territory of the Union, which for the purpose of this Regulation includes Ceuta, Helgoland and Melilla (Article 34(2)).

This general export authorisation is valid throughout the Union for exports to the following destinations:

Danish territories not included in the customs territory:

- Faroe Islands,
- Greenland

French territories not included in the customs territory:

- French Polynesia,
- French Southern and Antarctic Territories,
- New Caledonia and Dependencies,
- Saint-Barthélemy,
- Saint Pierre and Miquelon,
- Wallis and Futuna Islands

Dutch territories not included in the customs territory:

- Aruba,
- Bonaire,
- Curaçao,
- Saba,
- Sint Eustatius,
- Sint Maarten

Relevant British territories not included in the customs territory:

- Anguilla,
- Bermuda,
- Falkland Islands,

⁽¹⁾ Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (see page 1 of this Official Journal).

- Gibraltar,
- Montserrat,
- Saint Helena and Dependencies,
- South Georgia and the South Sandwich Islands,
- Turks and Caicos Islands

Albania

Andorra

Argentina

Australia

Benin

Bolivia

Bosnia and Herzegovina

Canada

Cape Verde

Colombia

Costa Rica

Djibouti

Dominican Republic

Ecuador

Former Yugoslav Republic of Macedonia

Gabon

Georgia

Guinea-Bissau

Honduras

Iceland

Kyrgyzstan

Liberia

Liechtenstein

Mexico

Moldova

Mongolia

Montenegro

Mozambique

Namibia

Nepal

New Zealand

Nicaragua

Norway

Panama

Paraguay

Philippines

Rwanda
San Marino
Sao Tome and Principe
Serbia
Seychelles
South Africa
Switzerland (including Büsingen and Campione d'Italia)
Timor-Leste
Togo
Turkey
Turkmenistan
Ukraine
Uruguay
Uzbekistan
Venezuela

PART 3

Conditions and requirements for using this general export authorisation

- (1) This general export authorisation may not be used if:
- (a) the exporter has been prohibited from using this general export authorisation in accordance with Article 20(1) of Regulation (EU) 2019/125;
 - (b) the competent authorities of the Member State in which the exporter is resident or established have informed the exporter that the goods in question are or may be intended, in their entirety or in part, either for re-export to a third country or to be used for the purpose of capital punishment in a third country;
 - (c) the exporter knows or has reasonable grounds to believe that the goods in question are intended, in their entirety or in part, either for re-export to a third country or to be used for the purpose of capital punishment in a third country;
 - (d) the relevant goods are exported to a customs free zone or free warehouse which is located in a destination covered by this general export authorisation;
 - (e) the exporter is the manufacturer of the medicinal products in question and has not concluded a legally binding agreement with the distributor requiring the latter to make all supplies and transfers subject to the conclusion of a legally binding agreement requiring, preferably subject to a dissuasive contractual penalty, the customer
 - (i) not to use any of the goods received from the distributor for capital punishment;
 - (ii) not to supply or transfer any of these goods to a third party, if the customer knows or has reasonable grounds to believe that the goods are intended to be used for the purpose of capital punishment; and
 - (iii) to impose the same requirements on any third party to which the customer might supply or transfer any of these goods;
 - (f) the exporter is not the manufacturer of the medicinal products in question and has not obtained a signed end-user declaration from the end-user in the country of destination;
 - (g) the exporter of medicinal products has not concluded a legally binding agreement with the distributor or end-user requiring, preferably subject to a dissuasive contractual penalty, the distributor or, if the agreement was concluded by the end-user, the end-user to obtain prior authorisation from the exporter for
 - (i) any transfer or supply of any part of the shipment to a law enforcement authority in a country or territory that has not abolished capital punishment;

- (ii) any transfer or supply of any part of the shipment to a natural or legal person, entity or body procuring relevant goods for or providing services involving use of such goods to such a law enforcement authority, and
 - (iii) any re-export or transfer of any part of the shipment to a country or territory that has not abolished capital punishment; or
 - (h) the exporter of goods other than medicinal products has not concluded a legally binding agreement referred to in point (g), with the end-user.
- (2) Exporters that use this general export authorisation EU GEA 2019/125 shall notify the competent authorities of the Member State where they are resident or established of their first use of this general export authorisation no later than 30 days after the date when the first export took place.

Exporters shall also report in the customs declaration the fact that they are using this general export authorisation EU GEA 2019/125 by indicating in box 44 the relevant code found in the TARIC database.

- (3) Reporting requirements attached to the use of this general export authorisation and any additional information that the Member State from which the export is made might require on items exported under this general export authorisation are defined by Member States.

A Member State may require exporters resident or established in that Member State to register prior to the first use of this general export authorisation. Without prejudice to Article 20(1) of Regulation (EU) 2019/125, registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt.

ANNEX VI

LIST OF TERRITORIES OF MEMBER STATES REFERRED TO IN ARTICLE 11(2)

DENMARK:

- Greenland

FRANCE:

- New Caledonia and Dependencies,
- French Polynesia,
- French Southern and Antarctic Territories,
- Wallis and Futuna Islands,
- St Pierre and Miquelon

GERMANY:

- Büsingen
-

ANNEX VII

EXPORT OR IMPORT AUTHORISATION FORM REFERRED TO IN ARTICLE 21(1)

Technical specification:

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

EUROPEAN UNION

AUTHORISATION EXPORT/IMPORT TORTURE EQUIPMENT	1 Applicant (full name, address, customs number) Type <input type="checkbox"/>	AUTHORISATION FOR EXPORT OR IMPORT OF GOODS THAT COULD BE USED FOR TORTURE (REGULATION (EU) 2019/125)		
	2 Consignee (full name and address)	3 Authorisation No <input type="checkbox"/> Export <input type="checkbox"/> Import		
		4 Expiry date		
	5 Agent/Representative (if different from applicant)	6 Country where the goods are located	Code	
		7 Country of destination	Code	
		8 Member State where a Customs procedure will take place		
	9 End-user (full name and address)	Issuing authority		
	10 Description of Item	11 Item No	12 CN Code	1
			13 Quantity	
	14 Specific requirements and conditions			
10 Description of item	11 Item No	12 CN Code	2	
		13 Quantity		
14 Specific requirements and conditions				
10 Description of item	11 Item No	12 HS Code	3	
		13 Quantity		
14 Specific requirements and conditions				
15 The undersigned certifies that, pursuant to Article 9(1) of Regulation (EU) 2019/125 and subject to the requirements, conditions and procedures set out in this form and the attachment(s) to which it refers, the competent authority has authorised [an export] [an import] (delete as not appropriate) concerning the goods described in box 10.				
16 Number of attachments				
Done at (place, date)				
Name (typed or capitals)				
Signature:			Stamp of issuing authority	

Explanatory notes to the form

'Authorisation for export or import of goods that could be used for torture (Regulation (EU) 2019/125)'.

This authorisation form shall be used to issue an authorisation for an export or import of goods in accordance with Regulation (EU) 2019/125 of the European Parliament and of the Council ⁽¹⁾. It should not be used to authorise the supply of technical assistance.

The issuing authority is the authority defined in point h of Article 2 of Regulation (EU) 2019/125 which is set out in Annex I to that Regulation.

Authorisations shall be issued on this single page form, which should be printed on both sides. The competent customs office deducts the exported quantities from the total quantity available. It has to make sure that the different items subject to the authorisation are clearly separated for this purpose.

Where national procedures of the Member States require additional copies of the form (as for example for the application) this authorisation form may be included in a form set containing the necessary copies following the national rules applicable. In the box above box 3 of each specimen and in the margin on the left, it should be clearly indicated for which purpose (e.g. application, copy for applicant) the relevant copies are intended. One specimen only shall be the authorisation form set out in Annex VII to Regulation (EU) 2019/125.

Box 1	Applicant:	Please indicate the applicant's name and the full address. The applicant's customs number may also be indicated (optional in most cases). The type of applicant should be indicated (optional) in the relevant box, using the numbers 1, 2 or 4 referring to the points set out in the definition in Article 2(i) of Regulation (EU) 2019/125.
Box 3	Authorisation No:	Please fill out the number and tick either the export or the import box. See Article 2(d) and (e) and Article 34 of Regulation (EU) 2019/125 for the definitions of the terms 'export' and 'import'.
Box 4	Expiry date:	Please state day (two digits), month (two digits) and year (four digits).
Box 5	Agent/representative:	Please indicate the name of a duly authorised representative or (customs) agent acting on behalf of the applicant, if the application is not presented by the applicant. See also Article 18 of Regulation (EU) No 952/2013.
Box 6	Country where the goods are located:	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009 of the European Parliament and of the Council ⁽²⁾ . See Commission Regulation (EU) No 1106/2012 ⁽³⁾ .
Box 7	Country of destination:	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 10	Description of item:	Please consider including data on packaging of the goods concerned. Note that the value of the goods may also be indicated in box 10. If there is not sufficient space in box 10, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.

⁽¹⁾ Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 30, 31.1.2019, p. 1).

⁽²⁾ Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

⁽³⁾ Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries of countries and territories (OJ L 328, 28.11.2012, p. 7).

		This form is designed for use for up to three different types of goods (see Annexes II and III to Regulation (EU) 2019/125). If it is necessary to authorise the export or import of more than three types of goods, please grant two authorisations.
Box 11	Item No:	This box needs to be completed on the back of the form only. Please ensure that the Item No corresponds to the printed item number in box 11 found next to the description of the relevant item on the view side.
Box 14	Specific requirements and conditions:	If there is not sufficient space in box 14, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.
Box 16	Number of attachments:	Please indicate the number of attachments, if any (see explanations to boxes 10 and 14).

ANNEX VIII

AUTHORISATION FORM FOR THE SUPPLY OF BROKERING SERVICES REFERRED TO IN ARTICLE 21(1)

Technical specification:

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

EUROPEAN UNION

1 Authorisation Brokering Services (Regulation (EU) 2019/125)	1	Applying broker (full name and address) <input type="checkbox"/>	AUTHORISATION FOR THE SUPPLY OF BROKERING SERVICES RELATED TO GOODS THAT COULD BE USED FOR TORTURE OR FOR CAPITAL PUNISHMENT (REGULATION (EU) 2019/125)			
	2	Natural person or legal person, entity or body exporting the goods from the relevant third country to the third country of destination (full name and address)	3	Authorisation No <input type="checkbox"/> Individual authorisation <input type="checkbox"/> Global authorisation		
			4	Expiry date		
	5	Consignee in third country of destination (full name and address) <input type="checkbox"/> End user <input type="checkbox"/> Distributor <input type="checkbox"/> Other	6	Third country where goods are located	Country code	
			7	Third country of destination	Country code	
	8	End user of distributor in third country of destination (full name and address) if different from consignee <input type="checkbox"/> End user <input type="checkbox"/> Distributor	9	Member State in which the broker is resident or established If there is no such Member State, Member State of which the broker is a national or incorporated legal person, entity or body		
	1	10	Third parties involved (e.g. agent)	Issuing authority		
		11	End use (where appropriate)	12 Precise information on the location of the goods in the third country where the goods are located		
	13	Description of item	14	Item No 1	15	HS Code
					16	Quantity
					17	Currency and value
	13	Description of item	14	Item No 2	15	HS Code
					16	Quantity
					17	Currency and value
	13	Description of item	14	Item No 3	15	HS Code
					16	Quantity
					17	Currency and value
	18 Specific requirements and conditions					
	19 The undersigned certifies that pursuant to Article 9(1) of Regulation (EU) 2019/125 and subject to the requirements, conditions and procedures set out in this form and the attachment(s) to which it refers, the competent authority has authorised brokering services concerning the goods described in box 13.					
	20 Number of attachments					
	Done at (place, date)					
	Name (typed or capitals)					
	Signature:			Stamp of issuing authority		

Explanatory notes to the form

'Authorisation for the supply of brokering services related to goods that could be used for capital punishment or for torture (Regulation (EU) 2019/125 of the European Parliament and of the Council ⁽¹⁾)'.

This authorisation form shall be used to issue an authorisation for brokering services in accordance with Regulation (EU) 2019/125.

The issuing authority is the authority defined in point (h) of Article 2 of Regulation (EU) 2019/125. It is an authority that is included in the list of competent authorities in Annex I to that Regulation.

Box 1	Applying broker	Please indicate the name and full address of the applying broker. Broker is defined in point (l) of Article 2 of Regulation (EU) 2019/125.
Box 3	Authorisation No	Please fill out the number and tick the appropriate box indicating whether the authorisation is an individual or global one (see points (p) and (q) of Article 2 of Regulation (EU) 2019/125 for the definitions).
Box 4	Expiry date	Please state day (two digits), month (two digits) and year (four digits). The period of validity of an individual authorisation is from three months to twelve months and that of a global authorisation from one year to three years. When the period of validity comes to an end, an extension can be requested, if necessary.
Box 5	Consignee	Please indicate, in addition to the name and address, whether the consignee in the third country of destination is an end-user, a distributor as referred to in point (r) of Article 2 of Regulation (EU) 2019/125 or a party having another role in the transaction. If the consignee is a distributor but also uses part of the shipment for a specific end-use, please tick both 'Distributor' and 'End-user' and mention the end-use in box 11.
Box 6	Third country where the goods are located	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009 of the European Parliament and of the Council ⁽²⁾ . See Commission Regulation (EU) No 1106/2012 ⁽³⁾ .
Box 7	Third country of destination	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 9	Issuing Member State	Please state in the appropriate line both the name of the Member State concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 11	End use	Please give a precise description of the use that will be made of the goods and also indicate whether the end user is a law enforcement authority as defined in point (c) of Article 2 of Regulation (EU) 2019/125 or a supplier of training on the use of the brokered goods. Leave blank if the brokering services are supplied to a distributor, unless the distributor itself uses part of the goods for a specific end-use.

⁽¹⁾ Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 30, 31.1.2019, p. 1).

⁽²⁾ Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

⁽³⁾ Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries of countries and territories (OJ L 328, 28.11.2012, p. 7).

Box 12	Precise location of the goods in the third country from which they will be exported	Please describe the whereabouts of the goods in the third country from which they will be supplied to the person, entity or body mentioned in box 2. The location must be an address in the country mentioned in box 6 or similar information describing the whereabouts of the goods. Note that indicating a post office box number or similar postal address is not allowed.
Box 13	Description of item	The description of the goods should include a reference to a specific item of Annex III or IV to Regulation (EU) 2019/125. Please consider including data on packaging of the goods concerned. If there is not sufficient space in box 13, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 20.
Box 14	Item No	This box needs to be completed on the back of the form only. Please ensure that the Item No corresponds to the printed item number in box 14 found next to the description of the relevant item on the view side.
Box 15	HS code	The HS code is a customs code assigned to the goods in the Harmonised System. Where the code from the EU Combined Nomenclature is known, that code may be used instead. See Commission Implementing Regulation (EU) 2016/1821 (*) for the current version of the Combined Nomenclature.
Box 17	Currency and value	Please indicate the value and currency using the price that is payable (without converting it). If that price is not known, the estimated value should be stated, preceded by the mention EV. The currency has to be indicated using the alphabetic code (ISO 4217:2015).
Box 18	Specific requirements and conditions	Box 18 concerns the item 1, 2 or 3 (please specify where appropriate) described in the boxes 14 to 16 preceding it. If there is not sufficient space in box 18, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 20.
Box 20	Number of attachments	Please indicate the number of attachments, if any (see explanations to boxes 13 and 18).

(*) Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 294, 28.10.2016, p. 1).

ANNEX IX

AUTHORISATION FORM FOR THE SUPPLY OF TECHNICAL ASSISTANCE REFERRED TO IN ARTICLE 21(1)

Technical specification:

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

EUROPEAN UNION

1 Authorisation technical Assistance (Regulation (EU) 2019/125)	1	Applying supplier of technical assistance (full name and address) <input type="checkbox"/>	AUTHORISATION FOR THE SUPPLY OF TECHNICAL ASSISTANCE RELATED TO GOODS THAT COULD BE USED FOR TORTURE OR FOR CAPITAL PUNISHMENT (REGULATION (EU) 2019/125)	
	2	Natural person or legal person, entity or body to whom the technical assistance will be supplied (full name and address)	3	Authorisation No Based on Article <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 7a <input type="checkbox"/> 7d
			4	Expiry date
	5	The natural or legal person, entity or body mentioned at 2 is <input type="checkbox"/> A museum <input type="checkbox"/> A law enforcement agency <input type="checkbox"/> An institution providing education or training <input type="checkbox"/> A supplier of repair services, maintenance or other technical services related to the goods to which the technical assistance relates <input type="checkbox"/> A manufacturer of the goods to which <input type="checkbox"/> None of the above. Please specify the activity of the natural or legal person, entity or body at 2:	6	Third country or Member State to which the technical assistance will be supplied (name and code)
			7	This authorisation applies to <input type="checkbox"/> A single supply of technical assistance <input type="checkbox"/> Technical assistance provided during a period of time. Please specify the period concerned:
			8	Member State in which the supplier of technical assistance is resident or established If there is no such Member State, Member State of which the supplier of technical assistance is a national or incorporated legal person, entity or body
	1		Issuing authority	
	9	Description of the type of goods to which the technical assistance relates		
	10	Description of the technical assistance that is authorised		
	11	If the person, entity or body mentioned at 2 is a person, entity or body in a third country, the technical assistance will be supplied <input type="checkbox"/> from the EU to that third country <input type="checkbox"/> by staff in that third country <input type="checkbox"/> from another third country (please specify)		
12	Description of any training on the use of the goods to which the technical assistance relates, which will be supplied to the natural or legal person, entity or body mentioned at 2	13	The training on the use of goods mentioned at 9 will be supplied by: <input type="checkbox"/> The supplier of technical assistance mentioned at 1 <input type="checkbox"/> A third country acting on behalf of or in association with the supplier of technical assistance (full name and address)	
14	Specific requirements and conditions			
15	The undersigned certifies that pursuant to Article 9(1) of Regulation (EU) 2019/125 and subject to the requirements, conditions and procedures set out in this form and the attachment(s) to which it refers, the competent authority has authorised the supply of technical assistance concerning the goods described in box 9.			
16	Number of attachments			
Done at (place, date)				
Name (typed or capitals)				
Signature:			(Stamp of issuing authority)	

Explanatory notes to the form

'Authorisation for the supply of technical assistance related to goods that could be used for capital punishment or for torture (Regulation (EU) 2019/125 of the European Parliament and of the Council ⁽¹⁾)'.

This authorisation form shall be used to authorise a supply of technical assistance in accordance with Regulation (EU) 2019/125. If the technical assistance accompanies an export for which an authorisation is granted by or in accordance with Regulation (EU) 2019/125, this form should not be used, except in the following cases:

- the technical assistance relates to goods listed in Annex II to Regulation (EU) 2019/125 (see Article 3(2)); or
- the technical assistance relating to goods listed in Annex III or in Annex IV to Regulation (EU) 2019/125 goes beyond what is necessary for the installation, operation, maintenance or repair of the exported goods (see Article 21(2) and, as regards goods listed in Annex IV, Part 1 of the Union General Export Authorisation EU GEA 2019/125 in Annex V to Regulation (EU) 2019/125).

The issuing authority is the authority defined in point (h) of Article 2 of Regulation (EU) 2019/125. It is an authority that is included in the list of competent authorities in Annex I to that Regulation.

Authorisations shall be issued on this single page form with attachments as necessary.

Box 1	Applying supplier of technical assistance	Please indicate the applicant's name and full address. Supplier of technical assistance is defined in point (m) of Article 2 of Regulation (EU) 2019/125. If the technical assistance accompanies an export for which an authorisation is granted, please also indicate the applicant's customs number, if possible, and indicate the number of the related export authorisation in box 14.
Box 3	Authorisation No	Please fill out the number and tick the appropriate box indicating the Article of Regulation (EU) 2019/125 on which the authorisation is based.
Box 4	Expiry date	Please state day (two digits), month (two digits) and year (four digits). The period of validity of an authorisation is from three months to twelve months. When the period of validity comes to an end, an extension can be requested, if necessary.
Box 5	Activity of the natural or legal person, entity or body mentioned at 2	Please indicate the main activity of the person, entity or body to which the technical assistance will be supplied. The term law enforcement authority is defined in point (c) of Article 2 of Regulation (EU) 2019/125. If the main activity is not in the list, tick 'None of the above' and describe the main activity using generic words (e.g. wholesaler, retailer, hospital).
Box 6	Third country or Member State to which the technical assistance will be supplied	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009 ⁽²⁾ of the European Parliament and of the Council. See Commission Regulation (EU) No 1106/2012 ⁽³⁾ . Note that in box 6 a Member State should only be mentioned, if the authorisation is based on Article 4 of Regulation (EU) 2019/125.

⁽¹⁾ Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 30, 31.1.2019, p. 1).

⁽²⁾ Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

⁽³⁾ Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries of countries and territories (OJ L 328, 28.11.2012, p. 7).

Box 7	Type of authorisation	Please indicate whether the supply of technical assistance is provided during a particular period and, if so, state the period in days, weeks or months during which the supplier of technical assistance has to respond to requests for advice, support or training. A single supply of technical assistance concerns one specific request for advice or support or a specific training (even if it concerns a course given during several days).
Box 8	Issuing Member State	Please state in the appropriate line both the name of the Member State concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 9	Description of the type of goods to which the technical assistance relates	Please describe the type of goods concerned by the technical assistance. The description should include a reference to a specific item of Annex II, III or IV to Regulation (EU) 2019/125.
Box 10	Description of the technical assistance that is authorised	Please describe the technical assistance in a clear and precise manner. Insert a reference to the date and number of an agreement concluded by the supplier of technical assistance or attach such an agreement, where appropriate.
Box 11	Mode of supply	Box 11 should not be filled out if the authorisation is based on Article 4 of Regulation (EU) 2019/125. If the technical assistance is supplied from a third country other than the third country where the recipient is resident or established, please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 12	Description of training on the use of goods to which the technical assistance relates	Please indicate whether the technical support or technical service covered by the definition of technical assistance in point (f) of Article 2 of Regulation (EU) 2019/125 is accompanied by training for users of the relevant goods. Please state which type of users will receive such training and specify the objectives and contents of the training programme.
Box 14	Specific requirements and conditions	If there is not sufficient space in box 14, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.
Box 16	Number of attachments	Please indicate the number of attachments, if any (see explanations to boxes 10 and 14).

ANNEX X

REPEALED REGULATION WITH LIST OF ITS SUCCESSIVE AMENDMENTS

Council Regulation (EC) No 1236/2005 (OJ L 200, 30.7.2005, p. 1)	
Commission Regulation (EC) No 1377/2006 (OJ L 255, 19.9.2006, p. 3)	
Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1)	Only the thirteenth indent of Article 1(1) as regards Regulation (EC) No 1236/2005, and point 13(5) of the Annex
Commission Regulation (EC) No 675/2008 (OJ L 189, 17.7.2008, p. 14)	
Commission Regulation (EU) No 1226/2010 (OJ L 336, 21.12.2010, p. 13)	
Commission Implementing Regulation (EU) No 1352/2011 (OJ L 338, 21.12.2011, p. 31)	
Council Regulation (EU) No 517/2013 (OJ L 158, 10.6.2013, p. 1)	Only Article 1(1)(n), fourth indent, and point 16(4) of the Annex
Commission Regulation (EU) No 585/2013 (OJ L 169, 21.6.2013, p. 46)	
Regulation (EU) No 37/2014 of the European Parliament and of the Council (OJ L 18, 21.1.2014, p. 1)	Only point 12 of the Annex
Commission Implementing Regulation (EU) No 775/2014 (OJ L 210, 17.7.2014, p. 1)	
Commission Delegated Regulation (EU) 2015/1113 (OJ L 182, 10.7.2015, p. 10)	
Regulation (EU) 2016/2134 of the European Parliament and of the Council (OJ L 338, 13.12.2016, p. 1)	
Commission Delegated Regulation (EU) 2018/181 (OJ L 40, 13.2.2018, p. 1)	

ANNEX XI

CORRELATION TABLE

Regulation (EC) No 1236/2005	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 4a	Article 5
Article 4b	Article 6
Article 4c	Article 7
Article 4d	Article 8
Article 4e	Article 9
Article 4f	Article 10
Article 5	Article 11
Article 6(1)	Article 12(1)
Article 6(2), first subparagraph	Article 12(2), first subparagraph
Article 6(2), second subparagraph, introductory wording	Article 12(2), second subparagraph, introductory wording
Article 6(2), second subparagraph, first indent	Article 12(2), second subparagraph, point (a)
Article 6(2), second subparagraph, second indent	Article 12(2), second subparagraph, point (b)
Article 6(2), third subparagraph	Article 12(2), third subparagraph
Article 6(3), introductory wording	Article 12(3), first subparagraph
Article 6(3), point 3.1	Article 12(3), second subparagraph
Article 6(3), point 3.2	Article 12(3), third subparagraph
Article 6a	Article 13
Article 7	Article 14
Article 7a	Article 15
Article 7b	Article 16
Article 7c(1)	Article 17(1)
Article 7c(2)	Article 17(2)
Article 7c(3), introductory wording	Article 17(3), first subparagraph
Article 7c(3), point 3.1	Article 17(3), second subparagraph
Article 7c(3), point 3.2	Article 17(3), third subparagraph
Article 7c(3), point 3.3	Article 17(3), fourth subparagraph
Article 7c(4)	Article 17(4)
Article 7d	Article 18
Article 7e	Article 19
Article 8	Article 20
Article 9	Article 21
Article 10	Article 22
Article 11	Article 23

Regulation (EC) No 1236/2005	This Regulation
Article 12	Article 24
Article 12a	Article 25
Article 13(1), (2) and (3)	Article 26(1), (2) and (3)
Article 13(3a)	Article 26(4)
Article 13(4)	Article 26(5)
Article 13(5)	Article 26(6)
Article 13a	Article 27
Article 14	Article 28
Article 15a	Article 29
Article 15b	Article 30
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Article 15d	Article 32
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—	Annex X
—	Annex XI

REGULATION (EU) 2019/126 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 January 2019
establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing
Council Regulation (EC) No 2062/94

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 point (a) of Article 153(2) 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 ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The European Agency for Safety and Health at Work (EU-OSHA) was established by Council Regulation (EC) No 2062/94 ⁽³⁾ to contribute to the improvement of the working environment, as regards the protection of the safety and health of workers, through action designed to increase and disseminate knowledge in that area.
- (2) Since it was established in 1994, EU-OSHA has played an important role in supporting the improvement of safety and health at work throughout the Union. At the same time, there have been developments in the area of occupational safety and health and technological developments. The terminology used to describe the objectives and tasks of EU-OSHA should therefore be adapted to reflect those developments.
- (3) Regulation (EC) No 2062/94 has been amended several times. Since further amendments are to be made, that Regulation should be repealed and replaced in the interest of clarity.
- (4) The rules governing EU-OSHA should, to the extent possible and taking into account its tripartite nature, be established in accordance with the principles of the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies of 19 July 2012.
- (5) As the three tripartite agencies, namely EU-OSHA, the European Foundation for the improvement of living and working conditions (Eurofound) and the European Centre for the Development of Vocational Training (Cedefop) address issues related to the labour market, the working environment, vocational education and training, and skills, close coordination among them is required. In its work, EU-OSHA should therefore complement the work of Eurofound and Cedefop where they have similar fields of interest, while favouring tools that function well, such as memoranda of understanding. EU-OSHA should exploit ways to enhance efficiency and synergies and, in its activities, avoid duplication with those of Eurofound and Cedefop and of the Commission. In addition, where relevant, EU-OSHA should seek to cooperate efficiently with the in-house research capacities of the Union institutions and of external specialised bodies.
- (6) The Commission should consult the main stakeholders including members of the Management Board and members of the European Parliament during the evaluation of EU-OSHA.
- (7) The tripartite nature of EU-OSHA, Eurofound and Cedefop is a highly valuable expression of a comprehensive approach based on the social dialogue between the social partners and Union and national authorities, which is extremely important for the purpose of finding joint and sustainable social and economic solutions.
- (8) When referring to safety and health at work in this Regulation, it is understood that it refers to both physical and mental health.

⁽¹⁾ OJ C 209, 30.6.2017, p. 49.

⁽²⁾ Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 20 December 2018.

⁽³⁾ Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work (OJ L 216, 20.8.1994, p. 1).

- (9) In order to streamline the decision-making process of EU-OSHA and to contribute to enhancing efficiency and effectiveness, a two-level governance structure should be introduced. To that end, the Member States, the national employers' and employees' organisations and the Commission should be represented on a Management Board vested with the necessary powers, including the power to adopt the budget and approve the programming document. In the programming document, containing EU-OSHA's multiannual work programme and its annual work programme, the Management Board should lay down the strategic priorities of EU-OSHA's activities. Moreover, the rules adopted by the Management Board for the prevention and management of conflicts of interests should include measures for detecting potential risks at an early stage.
- (10) In order for EU-OSHA to function properly, the Member States, the European employers' and employees' organisations and the Commission should ensure that persons to be appointed to the Management Board have appropriate knowledge in the field of safety and health at work with a view to making strategic decisions, and to overseeing EU-OSHA's activities.
- (11) The Executive Board should be set up with the task of preparing the meetings of the Management Board in an appropriate manner and supporting its decision-making and monitoring processes. In assisting the Management Board, it should be possible for the Executive Board, where necessary, for reasons of urgency, to take certain provisional decisions on behalf of the Management Board. The Management Board should adopt the rules of procedure of the Executive Board.
- (12) The Executive Director should be responsible for the overall management of EU-OSHA in accordance with the strategic direction set by the Management Board, including day-to-day administration as well as financial and human resources management. The Executive Director should exercise the powers entrusted to him or her. It should be possible to suspend those powers in exceptional circumstances, such as conflicts of interests or a serious failure to comply with obligations under the Staff Regulations of Officials of the European Union ('Staff Regulations').
- (13) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men must be 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 Executive Board. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together, as well as by the groups representing the governments and the employers' and employees' organisations on the Management Board with regard to the designation of alternates to attend the meetings of the Executive Board.
- (14) EU-OSHA operates a liaison office in Brussels. The possibility of operating that office should be maintained.
- (15) There are already organisations in the Union and in the Member States which provide the same type of information and services as provided by EU-OSHA. In order to obtain the maximum benefit at Union level from the work already carried out by those organisations, it is appropriate to maintain the existing well-functioning network set up by EU-OSHA under Regulation (EC) No 2062/94 and comprising national focal points and Member State tripartite networks. It is also important that EU-OSHA maintain very close functional links with the Advisory Committee on Safety and Health at Work set up by a Council Decision of 22 July 2003 ⁽⁴⁾, in order to ensure good coordination and synergies.
- (16) The financial provisions and provisions for programming and reporting relating to EU-OSHA should be updated. Commission Delegated Regulation (EU) No 1271/2013 ⁽⁵⁾ provides that EU-OSHA is to carry out *ex ante* and *ex post* evaluations of those programmes and activities that entail significant spending. Those evaluations should be taken into account by EU-OSHA in its multiannual and annual programming.
- (17) In order to ensure its full autonomy and independence and to enable it properly to carry out its objectives and tasks in accordance with this Regulation, EU-OSHA should be granted an adequate and autonomous budget with revenue stemming mainly from a contribution from the general budget of the Union. The Union budgetary procedure should be applicable to EU-OSHA as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. EU-OSHA's accounts should be audited by the Court of Auditors.

⁽⁴⁾ Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1).

⁽⁵⁾ 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).

- (18) The translation services required for EU-OSHA's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). EU-OSHA should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly EU-OSHA's needs and priorities, and create transparent and objective procedures for the translation process.
- (19) Provisions concerning EU-OSHA's staff should be in line with the Staff Regulations and the Conditions of Employment of Other Servants of the Union (Conditions of Employment of Other Servants) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽⁶⁾.
- (20) EU-OSHA should take the necessary measures to ensure the safe handling and processing of confidential information. Where required, EU-OSHA should adopt security rules equivalent to those set out in Commission Decisions (EU, Euratom) 2015/443 ⁽⁷⁾ and (EU, Euratom) 2015/444 ⁽⁸⁾.
- (21) It is necessary to lay down transitional budgetary provisions and transitional provisions with regard to the Management Board, Executive Director and staff to ensure the continuation of EU-OSHA's activities pending the implementation of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES AND TASKS

Article 1

Establishment and objectives

1. The European Agency for Safety and Health at Work (EU-OSHA) is hereby established as a Union Agency.
2. EU-OSHA's objective shall be to provide the Union institutions and bodies, the Member States, the social partners and other actors involved in the field of safety and health at work with relevant technical, scientific and economic information and qualified expertise in that field in order to improve the working environment as regards the protection of the safety and health of workers.

To that end, EU-OSHA shall enhance and disseminate knowledge, provide evidence and services for the purpose of policy making, including research-based conclusions, and shall facilitate knowledge sharing among and between Union and national actors.

Article 2

Tasks

1. EU-OSHA shall have the following tasks with respect to the policy areas referred to in Article 1(2), while fully respecting the responsibilities of the Member States:
 - (a) collect and analyse technical, scientific and economic information on safety and health at work in the Member States in order to:
 - (i) identify risks and good practices as well as existing national priorities and programmes;
 - (ii) provide the necessary input to Union priorities and programmes; and
 - (iii) disseminate that information to the Union institutions and bodies, the Member States, the social partners and other actors involved in the field of safety and health at work;
 - (b) collect and analyse technical, scientific and economic information on research into safety and health at work and on other research activities which involve aspects connected with safety and health at work and disseminate the results of the research and research activities;
 - (c) promote and support cooperation and exchange of information and experience amongst the Member States in the field of safety and health at work, including information on training programmes;
 - (d) organise conferences and seminars and exchanges of expertise from the Member States in the field of safety and health at work;

⁽⁶⁾ OJ L 56, 4.3.1968, p. 1.

⁽⁷⁾ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁽⁸⁾ 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).

- (e) supply the Union institutions and bodies and the Member States with the objective technical, scientific and economic information available and the qualified expertise they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers, including the prevention and anticipation of potential hazards, in particular providing the Commission with the technical, scientific, and economic information and with the qualified expertise that it requires to fulfil its tasks of identifying, preparing and evaluating legislative and other measures on the protection of the safety and health of workers, in particular as regards the impact of legal acts, their adaptation to technical, scientific and regulatory progress and their practical implementation by undertakings, with particular reference to micro, small and medium-sized enterprises (MSMEs);
- (f) provide forums for exchange of experiences and information between the governments, the social partners and other stakeholders at national level;
- (g) contribute, including through evidence-based information and analyses, to the implementation of reforms and policies at national level;
- (h) collect and make available information on safety and health matters from and to third countries and international organisations;
- (i) provide technical, scientific and economic information on methods and tools for implementing preventive activities, identify good practices and promote preventive actions, paying particular attention to the specific problems of MSMEs and, with regard to good practices, focus, in particular, on practices which constitute practical tools to be used in drawing up an assessment of the risks to safety and health at work, and identifying the measures to be taken to tackle those risks;
- (j) contribute to the development of Union strategies and action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;
- (k) establish a strategy for relations with third countries and international organisations in accordance with Article 30 concerning matters for which EU-OSHA is competent;
- (l) carry out awareness raising and communication activities and campaigns on safety and health at work issues.

2. Where new studies are needed, and before taking policy decisions, the Union institutions shall take into account EU-OSHA's expertise and any studies that it has conducted in the area concerned or that it is able to conduct, in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾.

3. EU-OSHA shall ensure that the information disseminated and the tools made available are tailored to the intended users. To achieve that objective, EU-OSHA shall work closely with the national focal points referred to in Article 12(1), in accordance with Article 12(2).

4. EU-OSHA may conclude cooperation agreements with other relevant Union agencies in order to facilitate and promote cooperation with them.

5. In carrying out its tasks, EU-OSHA shall maintain a close dialogue particularly with specialised bodies, whether public or private, national or international, with public authorities, with academic and research bodies, with employers' and employees' organisations, and with national tripartite bodies where they exist. Without prejudice to its objectives and purposes, EU-OSHA shall cooperate with other Union agencies, in particular Eurofound and Cedefop, promoting synergies and complementarity with their activities while avoiding any duplication of efforts.

CHAPTER II

ORGANISATION OF EU-OSHA

Article 3

Administrative and management structure

EU-OSHA's administrative and management structure shall comprise:

- (a) a Management Board;
- (b) an Executive Board;
- (c) an Executive Director;
- (d) a Network.

⁽⁹⁾ 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).

SECTION 1

Management Board

Article 4

Composition of the Management Board

1. The Management Board shall be composed of:
 - (a) one member, representing the government, from each Member State;
 - (b) one member, representing the employers' organisations, from each Member State;
 - (c) one member, representing the employees' organisations, from each Member State;
 - (d) three members representing the Commission;
 - (e) one independent expert appointed by the European Parliament.

Each of the members referred to in points (a) to (d) shall have the right to vote.

The Council shall appoint the members referred to in points (a), (b) and (c) from among the members and alternate members of the Advisory Committee on Safety and Health at Work.

The members referred to in point (a) shall be appointed on a proposal from the Member States. The members referred to in points (b) and (c) shall be appointed on a proposal by the respective groups' spokespersons in the Advisory Committee on Safety and Health at Work.

The proposals referred to in the fourth subparagraph shall be submitted to the Council and submitted to the Commission for information.

The Commission shall appoint the members referred to in point (d).

The responsible committee of the European Parliament shall appoint the expert referred to in point (e).

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in the member's absence. The alternates shall be appointed in accordance with paragraph 1.

3. Members of the Management Board and their alternates shall be designated and appointed on the basis of their knowledge in the field of safety and health at work, taking into account their relevant skills such as managerial, administrative and budgetary skills and expertise in the area of EU-OSHA's core tasks, in order to carry out an effective oversight role. 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. EU-OSHA 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. Upon expiry of their term of office or in the event of their resignation, members and alternates shall remain in office until their appointments are renewed or until they are replaced.

6. On the Management Board, the representatives of the governments, of the employers' organisations and of the employees' organisations shall each form a group. Each group shall designate a coordinator in order to enhance the efficiency of deliberations within and between the groups. The coordinators of the employers' and of the employees' groups shall be representatives of their respective European organisations and may be designated from among the appointed members of the Management Board. Coordinators who are not appointed members of the Management Board in accordance with paragraph 1 shall take part in Management Board meetings without the right to vote.

Article 5

Functions of the Management Board

1. The Management Board shall:
 - (a) provide the strategic orientations for EU-OSHA's activities;
 - (b) adopt each year, by a majority of two thirds of members with the right to vote and in accordance with Article 6, EU-OSHA's programming document, containing EU-OSHA's multiannual work programme and its annual work programme for the following year;

- (c) adopt, by a majority of two thirds of the members with the right to vote, EU-OSHA's annual budget and exercise other functions in respect of that budget pursuant to Chapter III;
- (d) adopt a consolidated annual activity report together with an assessment of EU-OSHA's activities, submit them 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;
- (e) adopt the financial rules applicable to EU-OSHA in accordance with Article 17;
- (f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
- (g) adopt rules for the prevention and management of conflicts of interests in respect of its members and independent experts, as well as of seconded national experts and other staff not employed by EU-OSHA as referred to in Article 20;
- (h) adopt and regularly update the communication and dissemination plans based on an analysis of needs and reflect this in EU-OSHA's programming document;
- (i) adopt its rules of procedure;
- (j) exercise, in accordance with paragraph 2, with respect to EU-OSHA's staff, 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 of Other Servants (the 'appointing authority powers');
- (k) adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- (l) appoint and, where relevant, extend the term of office of the Executive Director or remove him or her from office, in accordance with Article 19;
- (m) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be fully independent in the performance of his or her duties;
- (n) adopt the rules of procedure of the Executive Board;
- (o) monitor adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);
- (p) authorise the establishment of cooperation arrangements with the competent authorities of third countries and with international organisations in accordance with Article 30.

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 on Article 6 of the Conditions of Employment of Other Servants, 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.

Where exceptional circumstances so require, the Management Board may temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director. In such cases the Management Board shall delegate them, for a limited period, to one of the representatives of the Commission whom it nominates or to a staff member other than the Executive Director.

Article 6

Multiannual and annual programming

1. Each year, the Executive Director shall, in accordance with point (e) of Article 11(5) of this Regulation, draw up a draft programming document containing a multiannual and an annual work programme in accordance with Article 32 of Delegated Regulation (EU) No 1271/2013.

2. The Executive Director shall submit the draft programming document referred to in paragraph 1 to the Management Board. Following approval by the Management Board, the draft programming document shall be submitted to the Commission, the European Parliament and the Council no later than 31 January each year. The Executive Director shall submit any updated versions of that document in accordance with the same procedure. The Management Board shall adopt the programming document, taking into account the Commission's opinion.

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

3. The multiannual work programme shall set out overall strategic programming including objectives, expected results and performance indicators avoiding programming overlaps with other agencies. It shall also set out resource programming including multiannual budget and staff. It shall include a strategy for relations with third countries and international organisations in accordance with Article 30, the actions linked to this strategy, and a specification of associated resources.

4. The annual work programme shall be consistent with the multiannual work programme referred to in paragraph 3 and shall comprise:

- (a) detailed objectives and expected results including performance indicators;
- (b) a description of the actions to be financed, including planned measures that aim to increase efficiency;
- (c) an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management;
- (d) possible actions for relations with third countries and international organisations in accordance with Article 30.

It shall clearly indicate actions that have been added, changed or deleted in comparison with the previous financial year.

5. The Management Board shall amend the adopted annual work programme where a new activity is assigned to EU-OSHA. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme.

6. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and shall in particular address the outcome of the evaluation referred to in Article 28.

The assignment to EU-OSHA of a new activity for the purpose of fulfilling the tasks laid down in Article 2 shall be taken into account in its resource and financial programming, without prejudice to the powers of the European Parliament and the Council (the 'budgetary authority').

Article 7

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and three Deputy Chairpersons as follows:

- (a) one from among the members representing the governments of the Member States;
- (b) one from among the members representing the employers' organisations;
- (c) one from among the members representing the employees' organisations; and
- (d) one from among the members representing the Commission.

The Chairperson and the Deputy Chairpersons shall be elected by a majority of two thirds of members of the Management Board with the right to vote.

2. The term of office of the Chairperson and the Deputy Chairpersons shall be one year. Their term of office shall be renewable. Where 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 8

Meetings of the Management Board

1. The Chairperson shall convene meetings of the Management Board.

2. The Executive Director shall take part in the deliberations, without the right to vote.

3. The Management Board shall hold one ordinary meeting a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission or at the request of at least one-third of its members.

4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer. Representatives of European Free Trade Association (EFTA) countries which are parties to the Agreement on the European Economic Area (EEA Agreement) may attend the meetings of the Management Board as observers where the EEA Agreement provides for their participation in EU-OSHA's activities.
5. EU-OSHA shall provide the secretariat for the Management Board.

Article 9

Voting rules of the Management Board

1. Without prejudice to points (b) and (c) of Article 5(1), the second subparagraph of Article 7(1) and Article 19(7), the Management Board shall take decisions by a majority of members with the right to vote.

However, decisions in the framework of the annual work programme and with budgetary consequences for the national focal points shall also require the consent of a majority of members of the group representing the governments.

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 Chairperson shall take part in the voting.
4. The Executive Director shall take part in the deliberations, without the right to vote.
5. 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.

SECTION 2

Executive Board

Article 10

Executive Board

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
 - (a) prepare decisions to be adopted by the Management Board;
 - (b) monitor, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;
 - (c) without prejudice to the responsibilities of the Executive Director, as set out in Article 11, advise him or her, where necessary, in the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.
3. Where necessary, for reasons of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, including on the suspension of the delegation of the appointing authority powers in accordance with the conditions referred to in Article 5(2) and on budgetary matters.
4. The Executive Board shall be composed of the Chairperson of the Management Board, the three Deputy Chairpersons, the coordinators of the three groups referred to in Article 4(6) and one representative of the Commission. Each group referred to in Article 4(6) may designate up to two alternates to attend the meetings of the Executive Board in the event that a member appointed by the relevant group is absent. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board without the right to vote.
5. The term of office of members of the Executive Board shall be two years. That term shall be renewable. The term of office of a member of the Executive Board shall end on the date on which his or her membership of the Management Board ends.
6. The Executive Board shall meet three times a year. In addition, it shall meet on the initiative of the Chairperson or at the request of its members. Following each meeting, the coordinators of the three groups referred to in Article 4(6) shall use best efforts to inform members of their own group of the content of the discussion in a timely and transparent manner.

SECTION 3

Executive Director

Article 11

Responsibilities of the Executive Director

1. The Executive Director shall be responsible for the management of EU-OSHA in accordance with the strategic direction set by the Management Board and shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission, the Management Board, and the Executive Board, the Executive Director shall be independent in the performance of the duties and shall neither seek nor take instructions from any government or any other body.
3. The Executive Director shall report to the European Parliament on the performance of his or her duties where invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
4. The Executive Director shall be the legal representative of EU-OSHA.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to EU-OSHA by this Regulation. In particular the Executive Director shall be responsible for:
 - (a) the day-to-day administration of EU-OSHA, including exercising the powers entrusted to him or her in respect of staff matters, in accordance with Article 5(2);
 - (b) implementing decisions adopted by the Management Board;
 - (c) in accordance with the decision referred to in Article 5(2), taking decisions with regard to the management of human resources;
 - (d) taking into account the needs relating to EU-OSHA's activities and sound budgetary management, deciding on EU-OSHA's internal structures and, where necessary, their amendment;
 - (e) preparing the programming document and submitting it to the Management Board after consulting the Commission;
 - (f) implementing the programming document and reporting to the Management Board on its implementation;
 - (g) preparing the consolidated annual report on EU-OSHA's activities and presenting it to the Management Board for assessment and adoption;
 - (h) establishing an effective monitoring system to enable the regular evaluations referred to in Article 28 to be carried out and a reporting system to summarise their results;
 - (i) preparing draft financial rules applicable to EU-OSHA;
 - (j) preparing EU-OSHA's draft statement of estimates of revenue and expenditure, as part of EU-OSHA's programming document; and implementing EU-OSHA's budget;
 - (k) 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 and the Executive Board;
 - (l) aiming to ensure gender balance within EU-OSHA;
 - (m) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;
 - (n) preparing an anti-fraud strategy for EU-OSHA and presenting it to the Management Board for approval;
 - (o) where relevant, cooperating with other Union agencies and concluding cooperation agreements with them.
6. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out EU-OSHA's tasks in an efficient and effective manner to establish a liaison office in Brussels to further EU-OSHA's cooperation with the relevant Union institutions. That decision shall require the prior consent of the Commission, the Management Board and the relevant Member State. That decision shall specify the scope of the activities to be carried out by that liaison office in a manner that avoids unnecessary costs and any duplication of EU-OSHA's administrative functions.

SECTION 4

Network*Article 12***Network**

1. EU-OSHA shall set up a network comprising:
 - (a) the main components of the national information networks, including the national employers' and employees' organisations, in accordance with national law or practice;
 - (b) the national focal points.
2. The Member States shall regularly inform EU-OSHA of the main components of their national safety and health at work information networks, including any institution which in their judgement could contribute to EU-OSHA's work, taking into account the need to ensure the fullest possible coverage of their territory.

The national authorities or a national institution designated by the Member State as a national focal point shall coordinate and transmit the information to be supplied at national level to EU-OSHA within the framework of an agreement between each focal point and EU-OSHA on the basis of the work programme adopted by EU-OSHA.

The national authorities or national institution shall consult the national employers' and employees' organisations and shall take into account their point of view in accordance with national law or practice.

3. Topics that have been identified as being of particular interest shall be listed in EU-OSHA's annual work programme.

CHAPTER III

FINANCIAL PROVISIONS*Article 13***Budget**

1. Estimates of all the revenue and expenditure of EU-OSHA shall be prepared each financial year and shall be shown in EU-OSHA's budget. The financial year shall correspond to the calendar year.
2. EU-OSHA's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, EU-OSHA'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) charges for publications and any service provided by EU-OSHA;
 - (d) any contribution from third countries participating in the work of EU-OSHA, as provided for in Article 30.
4. The expenditure of EU-OSHA shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

*Article 14***Establishment of the budget**

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

The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 6(1) 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.

2. The Management Board shall, on the basis of the provisional draft estimate, adopt a draft estimate of EU-OSHA's revenue and expenditure for the following financial year, and shall send it to the Commission by 31 January each year.

3. 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 EU-OSHA.
4. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimate 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 of the Treaty on the Functioning of the European Union (TFEU).
5. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to EU-OSHA.
6. The budgetary authority shall adopt EU-OSHA's establishment plan.
7. EU-OSHA's budget shall be adopted by the Management Board. It shall become definitive following final adoption of the general budget of the Union and, if necessary, shall be adjusted accordingly. Any modification to EU-OSHA's budget, including the establishment plan, shall be adopted in accordance with the same procedure.
8. For any building project likely to have significant implications for EU-OSHA's budget, Delegated Regulation (EU) No 1271/2013 shall apply.

Article 15

Implementation of the budget

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

Article 16

Presentation of accounts and discharge

1. EU-OSHA'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. EU-OSHA shall send a 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.
3. The Commission's accounting officer shall send EU-OSHA's provisional accounts for year N, consolidated with the Commission's accounts, to the Court of Auditors by 31 March of year N + 1.
4. On receipt of the Court of Auditors' observations on EU-OSHA's provisional accounts for year N, pursuant to Article 246 of Regulation (EU, Euratom) 2018/1046, the accounting officer shall draw up EU-OSHA's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on EU-OSHA's final accounts for year N.
6. EU-OSHA'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. The final accounts for year N 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 the reply to the Management Board.
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 109(3) of Delegated Regulation (EU) No 1271/2013.
10. On a recommendation from the Council acting by a 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.

*Article 17***Financial rules**

The financial rules applicable to EU-OSHA 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 EU-OSHA's operation and the Commission has given its prior consent.

CHAPTER IV

STAFF*Article 18***General provisions**

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants shall apply to EU-OSHA's staff.
2. The Management Board shall adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.

*Article 19***Executive Director**

1. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of EU-OSHA under point (a) of Article 2 of the Conditions of Employment of Other Servants.
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.

For the purpose of concluding the contract with the Executive Director, EU-OSHA shall be represented by the Chairperson of the Management Board.

3. 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 EU-OSHA's future tasks and challenges.
4. The Management Board may, taking into account the assessment referred to in paragraph 3, extend the Executive Director's term of office once for no more than five years.
5. Where the term of office of an Executive Director has been extended, he or she shall not participate in another selection procedure for the same post at the end of the overall period.
6. 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 3.
7. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of members with the right to vote.

*Article 20***Seconded national experts and other staff**

1. EU-OSHA may make use of seconded national experts or other staff not employed by EU-OSHA.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to EU-OSHA.

CHAPTER V

GENERAL PROVISIONS

Article 21

Legal status

1. EU-OSHA shall be a Union agency. It shall have legal personality.
2. In each of the Member States, EU-OSHA shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.
3. EU-OSHA shall have its seat in Bilbao.
4. EU-OSHA may establish a liaison office in Brussels to further its cooperation with the relevant Union institutions in accordance with Article 11(6).

Article 22

Privileges and immunities

Protocol No 7 on the Privileges and Immunities of the European Union shall apply to EU-OSHA and its staff.

Article 23

Language arrangements

1. The provisions laid down in Council Regulation No 1 ⁽¹⁰⁾ shall apply to EU-OSHA.
2. The translation services required for EU-OSHA's functioning shall be provided by the Translation Centre.

Article 24

Transparency and data protection

1. EU-OSHA shall carry out its activities with a high level of transparency.
2. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹¹⁾ shall apply to documents held by EU-OSHA.
3. 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.
4. The processing of personal data by EU-OSHA shall be subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹²⁾. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EU) 2018/1725 by EU-OSHA, including those concerning the appointment of a Data Protection Officer. Those measures shall be established after consulting the European Data Protection Supervisor.

Article 25

Combating fraud

1. In order to facilitate the fight against fraud, corruption and other illegal activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹³⁾, EU-OSHA shall, by 21 August 2019, 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) ⁽¹⁴⁾ and shall adopt appropriate provisions applicable to all its employees using the template set out in the Annex to that Agreement.

⁽¹⁰⁾ Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ L 7, 6.10.1958, p. 385).

⁽¹¹⁾ 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).

⁽¹²⁾ 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).

⁽¹³⁾ 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).

⁽¹⁴⁾ OJ L 136, 31.5.1999, p. 15.

2. The Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds from EU-OSHA.
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 agreement or grant decision or a contract funded by EU-OSHA, 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 ⁽¹⁵⁾.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of EU-OSHA shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

Article 26

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

EU-OSHA shall adopt security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, set out in Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444, where required. EU-OSHA's security rules shall cover, inter alia, and where appropriate, provisions for the exchange, processing and storage of such information.

Article 27

Liability

1. EU-OSHA's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union (Court of Justice) shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by EU-OSHA.
3. In the case of non-contractual liability, EU-OSHA 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 relating to compensation for damage as referred to in paragraph 3.
5. The personal liability of its staff towards EU-OSHA shall be governed by the provisions laid down in the Staff Regulations and in the Conditions of Employment of Other Servants.

Article 28

Evaluation

1. In accordance with Article 29(5) of Delegated Regulation (EU) No 1271/2013, EU-OSHA shall carry out *ex ante* and *ex post* evaluations of those programmes and activities that entail significant spending.
2. By 21 February 2024, and every five years thereafter, the Commission shall ensure that an evaluation is carried out in accordance with the Commission guidelines to assess EU-OSHA's performance in relation to its objectives, mandate and tasks. The Commission shall consult members of the Management Board and the other main stakeholders during its evaluation. The evaluation shall, in particular, address the possible need to amend the mandate of EU-OSHA, and the financial implications of any such amendments.
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 29

Administrative inquiries

The activities of EU-OSHA shall be subject to the inquiries by the European Ombudsman in accordance with Article 228 TFEU.

⁽¹⁵⁾ 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).

*Article 30***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 respective competences of the Member States and of the Union institutions, EU-OSHA may cooperate with the competent authorities of third countries and with international organisations.

To that end, EU-OSHA 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 incumbent on the Union or the Member States.

2. EU-OSHA 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 EU-OSHA, including provisions relating to participation in the initiatives carried out by EU-OSHA, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

3. The Management Board shall adopt a strategy for relations with third countries and international organisations concerning matters for which EU-OSHA is competent.

*Article 31***Headquarters Agreement and operating conditions**

1. The necessary arrangements concerning the accommodation to be provided for EU-OSHA in the host Member State and the facilities to be made available by that 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 EU-OSHA and Member State where the seat is located.

2. EU-OSHA's host Member State shall provide the necessary conditions to ensure EU-OSHA's functioning, including multilingual, European-oriented schooling and appropriate transport connections.

CHAPTER VI

TRANSITIONAL PROVISIONS*Article 32***Transitional provisions concerning the Management Board**

The members of the Governing Board established on the basis of Article 8 of Regulation (EC) No 2062/94 shall remain in office and exercise the functions of the Management Board as referred to in Article 5 of this Regulation until the appointment of the members of the Management Board and of the independent expert pursuant to Article 4(1) of this Regulation.

*Article 33***Transitional provisions concerning the staff**

1. EU-OSHA's Director appointed on the basis of Article 11 of Regulation (EC) No 2062/94 shall, for the remaining periods of his or her term of office be assigned to the responsibilities of the Executive Director as provided for in Article 11 of this Regulation. The other conditions of his or her contract shall remain unchanged.

2. In the case of an ongoing selection and appointment procedure of the Executive Director at the time of the entry into force of this Regulation, Article 11 of the Regulation (EC) No 2062/94 shall apply until the finalisation of that procedure.

3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EC) No 2062/94. Their employment contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment of Other Servants.

Any liaison office of EU-OSHA which is operational at the time of entry into force of this Regulation shall be maintained.

*Article 34***Transitional budgetary provisions**

The discharge procedure in respect of the budgets approved on the basis of Article 13 of Regulation (EC) No 2062/94 shall be carried out in accordance with Article 14 of that Regulation.

CHAPTER VII

FINAL PROVISIONS*Article 35***Repeal**

Regulation (EC) No 2062/94 is repealed and all references to the repealed Regulation shall be construed as references to this Regulation.

*Article 36***Maintenance in force of the internal rules adopted by the Governing Board**

Internal rules adopted by the Governing Board on the basis of Regulation (EC) No 2062/94 shall remain in force after 20 February 2019, unless otherwise decided by the Management Board in the application of this Regulation.

*Article 37***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 all Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

REGULATION (EU) 2019/127 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 January 2019****establishing the European Foundation for the improvement of living and working conditions (Eurofound), and repealing Council Regulation (EEC) No 1365/75**

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 point (a) of Article 153(2) 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 ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The European Foundation for the improvement of living and working conditions (Eurofound) was established by Council Regulation (EEC) No 1365/75 ⁽³⁾ to contribute to the planning and establishment of better living and working conditions through activities designed to increase and disseminate knowledge. Eurofound should also take account of the medium- and long-term perspectives in that context.
- (2) Since it was established in 1975, Eurofound has played an important role in supporting the improvement of living and working conditions throughout the Union. At the same time the concepts and significance of living and working conditions have evolved under the influence of societal developments and fundamental changes in the labour markets. The terminology used to describe the objectives and tasks of Eurofound should therefore be adapted to reflect those developments.
- (3) Regulation (EEC) No 1365/75 has been amended several times. Since further amendments are to be made, that Regulation should be repealed and replaced in the interest of clarity.
- (4) The rules governing Eurofound should, to the extent possible and taking into account its tripartite nature, be established in accordance with the principles of the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies of 19 July 2012.
- (5) Eurofound provides Union institutions and bodies, Member States and the social partners with information that is specialised and that provides added value within Eurofound's area of expertise.
- (6) Eurofound should continue its production of surveys in order to secure the continuity of comparative analyses of trends in living and working conditions and of labour market developments in the Union.
- (7) It is also important that Eurofound works closely with related bodies at international, Union and national level.
- (8) As the three tripartite agencies, namely Eurofound, the European Agency for Safety and Health at Work (EU-OSHA) and the European Centre for the Development of Vocational Training (Cedefop), address issues related to the labour market, the working environment, vocational education and training, and skills, close coordination among them is required. In its work, Eurofound should therefore complement the work of EU-OSHA and Cedefop where they have similar fields of interest, while favouring tools that function well, such as memoranda of understanding. Eurofound should exploit ways to enhance efficiency and synergies and, in its activities, avoid duplication with those of EU-OSHA and Cedefop and of the Commission. In addition, where relevant, Eurofound should seek to cooperate efficiently with the in-house research capacities of the Union institutions and of external specialised bodies.

⁽¹⁾ OJ C 209, 30.6.2017, p. 49.

⁽²⁾ Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 20 December 2018.

⁽³⁾ Regulation (EEC) No 1365/75 of the Council of 26 May 1975 on the creation of a European Foundation for the improvement of living and working conditions (OJ L 139, 30.5.1975, p. 1).

- (9) The Commission should consult the main stakeholders including members of the Management Board and members of the European Parliament during the evaluation of Eurofound.
- (10) The tripartite nature of Eurofound, EU-OSHA and Cedefop is a highly valuable expression of a comprehensive approach based on the social dialogue between the social partners and Union and national authorities, which is extremely important for the purpose of finding joint and sustainable social and economic solutions.
- (11) In order to streamline the decision-making process of Eurofound and to contribute to enhancing efficiency and effectiveness, a two-level governance structure should be introduced. To that end, the Member States, the national employers' and employees' organisations and the Commission should be represented on a Management Board vested with the necessary powers, including the power to adopt the budget and approve the programming document. In the programming document, containing Eurofound's multiannual work programme and its annual work programme, the Management Board should lay down the strategic priorities of Eurofound's activities. Moreover, the rules adopted by the Management Board for the prevention and management of conflicts of interests should include measures for detecting potential risks at an early stage.
- (12) In order for Eurofound to function properly, the Member States, the European employers' and employees' organisations and the Commission should ensure that persons to be appointed to the Management Board have appropriate knowledge in the field of social and work-related policies with a view to making strategic decisions, and to overseeing Eurofound's activities.
- (13) The Executive Board should be set up with the task of preparing the meetings of the Management Board in an appropriate manner and supporting its decision-making and monitoring processes. In assisting the Management Board, it should be possible for the Executive Board, where necessary, for reasons of urgency, to take certain provisional decisions on behalf of the Management Board. The Management Board should adopt the rules of procedure of the Executive Board.
- (14) The Executive Director should be responsible for the overall management of Eurofound in accordance with the strategic direction set by the Management Board, including day-to-day administration as well as financial and human resources management. The Executive Director should exercise the powers entrusted to him or her. It should be possible to suspend those powers in exceptional circumstances, such as conflicts of interests or a serious failure to comply with obligations under the Staff Regulations of Officials of the European Union (Staff Regulations).
- (15) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men must be 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 Executive Board. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together, as well as by the groups representing the governments and the employers' and employees' organisations on the Management Board with regard to the designation of alternates to attend the meetings of the Executive Board.
- (16) Eurofound operates a liaison office in Brussels. The possibility of operating that office should be maintained.
- (17) The financial provisions and provisions for programming and reporting relating to Eurofound should be updated. Commission Delegated Regulation (EU) No 1271/2013 ⁽⁴⁾ provides that Eurofound is to carry out *ex-ante* and *ex-post* evaluations of those programmes and activities that entail significant spending. Those evaluations should be taken into account by Eurofound in its multiannual and annual programming.
- (18) In order to ensure its full autonomy and independence and to enable it properly to carry out its objectives and tasks in accordance with this Regulation, Eurofound should be granted an adequate and autonomous budget with revenue stemming mainly from a contribution from the general budget of the Union. The Union budgetary procedure should be applicable to Eurofound as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. Eurofound's accounts should be audited by the Court of Auditors.
- (19) The translation services required for Eurofound's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). Eurofound should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly Eurofound's needs and priorities, and create transparent and objective procedures for the translation process.

⁽⁴⁾ 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).

- (20) Provisions concerning Eurofound's staff should be in line with the Staff Regulations and the Conditions of Employment of Other Servants of the Union (Conditions of Employment of Other Servants), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽⁵⁾.
- (21) Eurofound should take the necessary measures to ensure the safe handling and processing of confidential information. Where required, Eurofound should adopt security rules equivalent to those set out in Commission Decisions (EU, Euratom) 2015/443 ⁽⁶⁾ and (EU, Euratom) 2015/444 ⁽⁷⁾.
- (22) It is necessary to lay down transitional budgetary provisions and transitional provisions with regard to the Management Board, Executive Director and staff to ensure the continuation of Eurofound's activities pending the implementation of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES AND TASKS

Article 1

Establishment and objectives

1. The European Foundation for the improvement of living and working conditions, (Eurofound), is hereby established as a Union Agency.
2. Eurofound's objective shall be to provide the Commission, other Union institutions, bodies and agencies, the Member States and the social partners with support for the purpose of shaping and implementing policies concerning the improvement of living and working conditions, devising employment policies, and promoting the dialogue between management and labour.

To that end, Eurofound shall enhance and disseminate knowledge, provide evidence and services for the purpose of policy making, including research-based conclusions, and shall facilitate knowledge sharing among and between Union and national actors.

Article 2

Tasks

1. Eurofound shall have the following tasks with respect to the policy areas referred to in Article 1(2), while fully respecting the responsibilities of the Member States:
 - (a) analyse developments and provide comparative analyses of policies, institutional frameworks and practices in Member States and, where relevant, other countries;
 - (b) collect data, for instance by means of surveys, and analyse trends in living and working conditions, employment and labour market developments;
 - (c) analyse the developments in industrial relation systems and in particular social dialogue at Union level and in the Member States;
 - (d) carry out or commission studies and carry out research on relevant socioeconomic developments and related policy issues;
 - (e) carry out, where relevant and at the request of the Commission, pilot projects and preparatory actions;
 - (f) provide forums for exchange of experiences and information between the governments, the social partners and other stakeholders at national level, including through evidence-based information and analysis;
 - (g) manage and make available tools and datasets to policymakers, the social partners, academic bodies and other stakeholders;
 - (h) establish a strategy for relations with third countries and international organisations in accordance with Article 30 concerning matters for which Eurofound is competent.

⁽⁵⁾ OJ L 56, 4.3.1968, p. 1.

⁽⁶⁾ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁽⁷⁾ 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).

2. Where new studies are needed, and before taking policy decisions, the Union institutions shall take into account Eurofound's expertise and any studies that it has conducted in the area concerned or that it is able to conduct, in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾.
3. Eurofound may conclude cooperation agreements with other relevant Union agencies in order to facilitate and promote cooperation with them.
4. In carrying out its tasks, Eurofound shall maintain a close dialogue particularly with specialised bodies, whether public or private, national or international, with public authorities, with academic and research bodies, with employers' and employees' organisations, and with national tripartite bodies where they exist. Without prejudice to its objectives and purposes, Eurofound shall cooperate with other Union agencies, in particular EU-OSHA and Cedefop, promoting synergies and complementarity with their activities, while avoiding any duplication of efforts.

CHAPTER II

ORGANISATION OF EUROFOUND

Article 3

Administrative and management structure

Eurofound's administrative and management structure shall comprise:

- (a) a Management Board;
- (b) an Executive Board;
- (c) an Executive Director.

Section 1

Management Board

Article 4

Composition of the Management Board

1. The Management Board shall be composed of:
 - (a) one member, representing the government, from each Member State;
 - (b) one member, representing the employers' organisations, from each Member State;
 - (c) one member, representing the employees' organisations, from each Member State;
 - (d) three members representing the Commission;
 - (e) one independent expert appointed by the European Parliament.

Each of the members referred to in points (a) to (d) shall have the right to vote.

The Council shall appoint the members referred to in points (a), (b) and (c) on the basis of candidates designated, respectively, by the Member States and European employers' and employees' organisations.

The Commission shall appoint the members referred to in point (d).

The responsible committee of the European Parliament shall appoint the expert referred to in point (e).

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in the member's absence. The alternates shall be appointed in accordance with paragraph 1.
3. Members of the Management Board and their alternates shall be designated and appointed on the basis of their knowledge in the field of social and work-related policies, taking into account their relevant skills such as managerial, administrative and budgetary skills and expertise in the area of Eurofound's core tasks, in order to carry out an effective oversight role. 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.

⁽⁸⁾ 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).

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. Eurofound 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. Upon expiry of their term of office or in the event of their resignation, members and alternates shall remain in office until their appointments are renewed or until they are replaced.

6. On the Management Board, the representatives of the governments, of the employers' organisations and of the employees' organisations shall each form a group. Each group shall designate a coordinator in order to enhance the efficiency of deliberations within and between the groups. The coordinators of the employers' and of the employees' groups shall be representatives of their respective European organisations and may be designated from among the appointed members of the Management Board. Coordinators who are not appointed members of the Management Board in accordance with paragraph 1 shall take part in Management Board meetings without the right to vote.

Article 5

Functions of the Management Board

1. The Management Board shall:

- (a) provide the strategic orientations for Eurofound's activities;
- (b) adopt each year, by a majority of two-thirds of members with the right to vote and in accordance with Article 6, Eurofound's programming document, containing Eurofound's multiannual work programme and its annual work programme for the following year;
- (c) adopt, by a majority of two-thirds of the members with the right to vote, Eurofound's annual budget and exercise other functions in respect of that budget pursuant to Chapter III;
- (d) adopt a consolidated annual activity report together with an assessment of Eurofound's activities, submit them 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;
- (e) adopt the financial rules applicable to Eurofound in accordance with Article 17;
- (f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
- (g) adopt rules for the prevention and management of conflicts of interests in respect of its members and independent experts, as well as of seconded national experts and other staff not employed by Eurofound as referred to in Article 20;
- (h) adopt and regularly update the communication and dissemination plans based on an analysis of needs and reflect this in Eurofound's programming document;
- (i) adopt its rules of procedure;
- (j) exercise, in accordance with paragraph 2, with respect to Eurofound's staff, 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 of Other Servants (the 'appointing authority powers');
- (k) adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- (l) appoint and, where relevant, extend the term of office of the Executive Director or remove him or her from office, in accordance with Article 19;
- (m) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be fully independent in the performance of his or her duties;
- (n) adopt the rules of procedure of the Executive Board;
- (o) establish and dissolve Advisory Committees in accordance with Article 12, and adopt their rules of procedure;
- (p) monitor adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);
- (q) authorise the establishment of cooperation arrangements with the competent authorities of third countries and with international organisations in accordance with Article 30.

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 on Article 6 of the Conditions of Employment of Other Servants, 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.

Where exceptional circumstances so require, the Management Board may temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director. In such cases the Management Board shall delegate them, for a limited period, to one of the representatives of the Commission whom it nominates or to a staff member other than the Executive Director.

Article 6

Multiannual and annual programming

1. Each year, the Executive Director shall, in accordance with point (f) of Article 11(5) of this Regulation, draw up a draft programming document containing a multiannual and an annual work programme in accordance with Article 32 of Delegated Regulation (EU) No 1271/2013.

2. The Executive Director shall submit the draft programming document referred to in paragraph 1 to the Management Board. Following approval by the Management Board, the draft programming document shall be submitted to the Commission, the European Parliament and the Council no later than 31 January each year. The Executive Director shall submit any updated versions of that document in accordance with the same procedure. The Management Board shall adopt the programming document taking into account the Commission's opinion.

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

3. The multiannual work programme shall set out overall strategic programming including objectives, expected results and performance indicators, avoiding programming overlaps with other agencies. It shall also set out resource programming including multiannual budget and staff. It shall include a strategy for relations with third countries and international organisations in accordance with Article 30, the actions linked to this strategy, and a specification of associated resources.

4. The annual work programme shall be consistent with the multiannual work programme referred to in paragraph 3 and shall comprise:

- (a) detailed objectives and expected results including performance indicators;
- (b) a description of the actions to be financed, including planned measures that aim to increase efficiency;
- (c) an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management;
- (d) possible actions for relations with third countries and international organisations in accordance with Article 30.

It shall clearly indicate actions that have been added, changed or deleted in comparison with the previous financial year.

5. The Management Board shall amend the adopted annual work programme where a new activity is assigned to Eurofound. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme.

6. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and shall in particular address the outcome of the evaluation referred to in Article 28.

The assignment to Eurofound of a new activity for the purpose of fulfilling the tasks laid down in Article 2 shall be taken into account in its resource and financial programming, without prejudice to the powers of the European Parliament and the Council (the 'budgetary authority').

Article 7

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and three Deputy Chairpersons as follows:

- (a) one from among the members representing the governments of the Member States;
- (b) one from among the members representing the employers' organisations;

- (c) one from among the members representing the employees' organisations; and
- (d) one from among the members representing the Commission.

The Chairperson and the Deputy Chairpersons shall be elected by a majority of two-thirds of members of the Management Board with the right to vote.

2. The term of office of the Chairperson and the Deputy Chairpersons shall be one year. Their term of office shall be renewable. Where 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 8

Meetings of the Management Board

1. The Chairperson shall convene meetings of the Management Board.
2. The Executive Director shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold one ordinary meeting a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission or at the request of at least one-third of its members.
4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer. Representatives of European Free Trade Association (EFTA) countries which are parties to the Agreement on the European Economic Area (EEA Agreement) may attend the meetings of the Management Board as observers where the EEA Agreement provides for their participation in Eurofound's activities.
5. Eurofound shall provide the secretariat for the Management Board.

Article 9

Voting rules of the Management Board

1. Without prejudice to points (b) and (c) of Article 5(1), the second subparagraph of Article 7(1) and Article 19(7), 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 Chairperson shall take part in the voting.
4. The Executive Director shall take part in the deliberations, without the right to vote.
5. 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.

Section 2

Executive Board

Article 10

Executive Board

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
 - (a) prepare decisions to be adopted by the Management Board;
 - (b) monitor, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;
 - (c) without prejudice to the responsibilities of the Executive Director, as set out in Article 11, advise him or her, where necessary, in the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.

3. Where necessary, for reasons of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, including on the suspension of the delegation of the appointing authority powers in accordance with the conditions referred to in Article 5(2) and on budgetary matters.
4. The Executive Board shall be composed of the Chairperson of the Management Board, the three Deputy Chairpersons, the coordinators of the three groups referred to in Article 4(6) and one representative of the Commission. Each group referred to in Article 4(6) may designate up to two alternates to attend the meetings of the Executive Board in the event that a member appointed by the relevant group is absent. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board without the right to vote.
5. The term of office of members of the Executive Board shall be two years. That term shall be renewable. The term of office of a member of the Executive Board shall end on the date on which his or her membership of the Management Board ends.
6. The Executive Board shall meet three times a year. In addition, it shall meet on the initiative of the Chairperson or at the request of its members. Following each meeting, the coordinators of the three groups referred to in Article 4(6) shall use best efforts to inform members of their own group of the content of the discussion in a timely and transparent manner.

Section 3

Executive Director

Article 11

Responsibilities of the Executive Director

1. The Executive Director shall be responsible for the management of Eurofound in accordance with the strategic direction set by the Management Board and shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission, the Management Board, and the Executive Board, the Executive Director shall be independent in the performance of the duties and shall neither seek nor take instructions from any government or any other body.
3. The Executive Director shall report to the European Parliament on the performance of his or her duties where invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
4. The Executive Director shall be the legal representative of Eurofound.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to Eurofound by this Regulation. In particular, the Executive Director shall be responsible for:
 - (a) the day-to-day administration of Eurofound, including exercising the powers entrusted to him or her in respect of staff matters, in accordance with Article 5(2);
 - (b) implementing decisions adopted by the Management Board;
 - (c) in accordance with the decision referred to in Article 5(2), taking decisions with regard to the management of human resources;
 - (d) taking into account the needs relating to Eurofound's activities and sound budgetary management, deciding on Eurofound's internal structures and, where necessary, their amendment;
 - (e) selecting and appointing the Deputy Director who shall support the Executive Director in carrying out Eurofound's functions and activities;
 - (f) preparing the programming document and submitting it to the Management Board after consulting the Commission;
 - (g) implementing the programming document and reporting to the Management Board on its implementation;
 - (h) preparing the consolidated annual report on Eurofound's activities and presenting it to the Management Board for assessment and adoption;
 - (i) establishing an effective monitoring system to enable the regular evaluations referred to in Article 28 to be carried out and a reporting system to summarise their results;
 - (j) preparing draft financial rules applicable to Eurofound;

- (k) preparing Eurofound's draft statement of estimates of revenue and expenditure, as part of Eurofound's programming document; and implementing Eurofound's budget;
 - (l) 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 and the Executive Board;
 - (m) aiming to ensure gender balance within Eurofound;
 - (n) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;
 - (o) preparing an anti-fraud strategy for Eurofound and presenting it to the Management Board for approval;
 - (p) where relevant, cooperating with other Union agencies and concluding cooperation agreements with them.
6. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out Eurofound's tasks in an efficient and effective manner to establish a liaison office in Brussels to further Eurofound's cooperation with the relevant Union institutions. That decision shall require the prior consent of the Commission, the Management Board and the relevant Member State. That decision shall specify the scope of the activities to be carried out by that liaison office in a manner that avoids unnecessary costs and any duplication of Eurofound's administrative functions.

Section 4

Advisory committees

Article 12

Advisory Committees

1. The Management Board may establish Advisory Committees in line with the policy priority areas outlined in Eurofound's programming documents.
2. Advisory Committees shall be operational bodies established for the purpose of ensuring the quality of the research produced by Eurofound, as well as a wide ownership of the projects and of their results, by fostering participation in the implementation of Eurofound's programmes and providing advice and new inputs.
3. In liaison with the Management Board and the Executive Board, Advisory Committees shall carry out the following main functions related to research projects:
 - (a) giving advice on their design and implementation;
 - (b) monitoring progress in their implementation;
 - (c) evaluating their findings;
 - (d) advising on the dissemination of results.
4. The coordinators of the groups referred to in Article 4(6) shall oversee the nomination and participation of the members of the Advisory Committees in accordance with the Management Board's rules of procedure.
5. The Management Board may dissolve the Advisory Committees established pursuant to paragraph 1, in line with the priorities outlined in Eurofound's programming documents.

CHAPTER III

FINANCIAL PROVISIONS

Article 13

Budget

1. Estimates of all revenue and expenditure for Eurofound shall be prepared each financial year and shall be shown in Eurofound's budget. The financial year shall correspond to the calendar year.
2. Eurofound's budget shall be balanced in terms of revenue and of expenditure.

3. Without prejudice to other resources, Eurofound'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) charges for publications and any service provided by Eurofound;
 - (d) any contribution from third countries participating in the work of Eurofound, as provided for in Article 30.
4. The expenditure of Eurofound shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

Article 14

Establishment of the budget

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

The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 6(1) 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.

2. The Management Board shall, on the basis of the provisional draft estimate, adopt a draft estimate of Eurofound's revenue and expenditure for the following financial year, and shall send it to the Commission by 31 January each year.

3. 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 Eurofound.

4. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimate 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 of the Treaty on the Functioning of the European Union (TFEU).

5. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to Eurofound.

6. The budgetary authority shall adopt Eurofound's establishment plan.

7. Eurofound's budget shall be adopted by the Management Board. It shall become definitive following final adoption of the general budget of the Union and, if necessary, shall be adjusted accordingly. Any modification to Eurofound's budget, including the establishment plan, shall be adopted in accordance with the same procedure.

8. For any building project likely to have significant implications for Eurofound's budget, Delegated Regulation (EU) No 1271/2013 shall apply.

Article 15

Implementation of the budget

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

Article 16

Presentation of accounts and discharge

1. Eurofound'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. Eurofound shall send a 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.

3. The Commission's accounting officer shall send Eurofound's provisional accounts for year N, consolidated with the Commission's accounts, to the Court of Auditors by 31 March of year N + 1.

4. On receipt of the Court of Auditors' observations on Eurofound's provisional accounts for year N, pursuant to Article 246 of Regulation (EU, Euratom) 2018/1046, the accounting officer shall draw up Eurofound's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on Eurofound's final accounts for year N.
6. Eurofound'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. The final accounts for year N 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 the reply to the Management Board.
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 109(3) of Delegated Regulation (EU) No 1271/2013.
10. On a recommendation from the Council acting by a 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.

Article 17

Financial rules

The financial rules applicable to Eurofound 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 Eurofound's operation and the Commission has given its prior consent.

CHAPTER IV

STAFF

Article 18

General provisions

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants shall apply to Eurofound's staff.
2. The Management Board shall adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.

Article 19

Executive Director

1. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of Eurofound under point (a) of Article 2 of the Conditions of Employment of Other Servants.
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.

For the purpose of concluding the contract with the Executive Director, Eurofound shall be represented by the Chairperson of the Management Board.

3. 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 Eurofound's future tasks and challenges.

4. The Management Board may, taking into account the assessment referred to in paragraph 3, extend the Executive Director's term of office once for no more than five years.
5. Where the term of office of an Executive Director has been extended he or she shall not participate in another selection procedure for the same post at the end of the overall period.
6. 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 3.
7. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of members with the right to vote.

Article 20

Seconded national experts and other staff

1. Eurofound may make use of seconded national experts or other staff not employed by Eurofound.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to Eurofound.

CHAPTER V

GENERAL PROVISIONS

Article 21

Legal status

1. Eurofound shall be a Union agency. It shall have legal personality.
2. In each of the Member States Eurofound shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.
3. Eurofound shall have its seat in Dublin.
4. Eurofound may establish a liaison office in Brussels to further its cooperation with the relevant Union institutions in accordance with Article 11(6).

Article 22

Privileges and immunities

Protocol No 7 on the Privileges and Immunities of the European Union shall apply to Eurofound and its staff.

Article 23

Language arrangements

1. The provisions laid down in Council Regulation No 1 ⁽⁹⁾ shall apply to Eurofound.
2. The translation services required for Eurofound's functioning shall be provided by the Translation Centre.

Article 24

Transparency and data protection

1. Eurofound shall carry out its activities with a high level of transparency.
2. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁰⁾ shall apply to documents held by Eurofound.

⁽⁹⁾ Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

⁽¹⁰⁾ 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).

3. 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.

4. The processing of personal data by Eurofound shall be subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁾. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EU) 2018/1725 by Eurofound, including those concerning the appointment of a Data Protection Officer. Those measures shall be established after consulting the European Data Protection Supervisor.

Article 25

Combating fraud

1. In order to facilitate the fight against fraud, corruption and other illegal activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾, Eurofound shall, by 21 August 2019, 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) ⁽³⁾ and shall adopt appropriate provisions applicable to all its employees 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 of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds from Eurofound.

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 agreement or grant decision or a contract funded by Eurofound, 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 ⁽⁴⁾.

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

Article 26

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

Eurofound shall adopt security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, set out in Decisions (EU, Euratom) 2015/443 and 2015/444, where required. Eurofound's security rules shall cover, inter alia, and where appropriate, provisions for the exchange, processing and storage of such information.

Article 27

Liability

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

2. The Court of Justice of the European Union (Court of Justice) shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by Eurofound.

3. In the case of non-contractual liability, Eurofound 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.

⁽¹⁾ 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).

⁽²⁾ 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).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ 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).

4. The Court of Justice shall have jurisdiction relating to compensation for damage as referred to in paragraph 3.
5. The personal liability of its staff towards Eurofound shall be governed by the provisions laid down in the Staff Regulations and in the Conditions of Employment of Other Servants.

Article 28

Evaluation

1. In accordance with Article 29(5) of Delegated Regulation (EU) No 1271/2013, Eurofound shall carry out *ex-ante* and *ex-post* evaluations of those programmes and activities that entail significant spending.
2. By 21 February 2024, and every five years thereafter, the Commission shall ensure that an evaluation is carried out in accordance with the Commission guidelines to assess Eurofound's performance in relation to its objectives, mandate and tasks. The Commission shall consult members of the Management Board and the other main stakeholders during its evaluation. The evaluation shall, in particular, address the possible need to amend the mandate of Eurofound, and the financial implications of any such amendments.
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 29

Administrative inquiries

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

Article 30

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 respective competences of the Member States and of the Union institutions, Eurofound may cooperate with the competent authorities of third countries and with international organisations.

To that end, Eurofound 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 incumbent on the Union or the Member States.

2. Eurofound 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 Eurofound, including provisions relating to participation in the initiatives carried out by Eurofound, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

3. The Management Board shall adopt a strategy for relations with third countries and international organisations concerning matters for which Eurofound is competent.

Article 31

Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for Eurofound in the host Member State and the facilities to be made available by that 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 Eurofound and Member State where the seat is located.
2. Eurofound's host Member State shall provide the necessary conditions to ensure Eurofound's functioning, including multilingual, European-oriented schooling and appropriate transport connections.

CHAPTER VI

TRANSITIONAL PROVISIONS*Article 32***Transitional provisions concerning the Management Board**

The members of the Governing Board established on the basis of Article 6 of Regulation (EEC) No 1365/75 shall remain in office and exercise the functions of the Management Board as referred to in Article 5 of this Regulation until the appointment of the members of the Management Board and of the independent expert pursuant to Article 4(1) of this Regulation.

*Article 33***Transitional provisions concerning the staff**

1. Eurofound's Director appointed on the basis of Article 8 of Regulation (EEC) No 1365/75 shall, for the remaining periods of his or her term of office be assigned to the responsibilities of the Executive Director as provided for in Article 11 of this Regulation. The other conditions of his or her contract shall remain unchanged.
2. In the case of an ongoing selection and appointment procedure of the Executive Director at the time of the entry into force of this Regulation, Article 8 of the Regulation (EEC) No 1365/75 shall apply until the finalisation of that procedure.
3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EEC) No 1365/75. Their employment contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment of Other Servants.

Any liaison office of Eurofound which is operational at the time of entry into force of this Regulation shall be maintained.

*Article 34***Transitional budgetary provisions**

The discharge procedure in respect of the budgets approved on the basis of Article 15 of Regulation (EEC) No 1365/75 shall be carried out in accordance with Article 16 of that Regulation.

CHAPTER VII

FINAL PROVISIONS*Article 35***Repeal**

Regulation (EEC) No 1365/75 is repealed and all references to the repealed Regulation shall be construed as references to this Regulation.

*Article 36***Maintenance in force of the internal rules adopted by the Governing Board**

Internal rules adopted by the Governing Board on the basis of Regulation (EEC) No 1365/75 shall remain in force after 20 February 2019 unless otherwise decided by the Management Board in the application of this Regulation.

*Article 37***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 all Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

REGULATION (EU) 2019/128 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 January 2019
establishing a European Centre for the Development of Vocational Training (Cedefop) and
repealing Council Regulation (EEC) No 337/75

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 Article 166(4) and Article 165(4),

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 ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The European Centre for the Development of Vocational Training (Cedefop) was established by Council Regulation (EEC) No 337/75 ⁽³⁾ to assist the Commission in encouraging, at Union level, the promotion and development of vocational training and of in-service training.
- (2) Since it was established in 1975, Cedefop has played an important role in supporting the development of a common vocational education and training policy. At the same time, the concept and significance of vocational training has evolved under the influence of changing labour markets, technological developments, particularly in the digital area, and increasing labour mobility. Those factors add to the challenge of better matching competencies and qualifications with a constantly evolving demand. Vocational training policies have evolved accordingly and encompass a variety of instruments and initiatives, including those related to skills and qualifications and the validation of learning, which necessarily go beyond the traditional boundaries of vocational education and training. The nature of Cedefop's activities should therefore be clearly defined in order better to reflect its current activities, which go beyond vocational education and training and include work on skills and qualifications, and the terminology used to describe the objectives and tasks of Cedefop should be adapted to reflect those developments.
- (3) The 2013 Cedefop evaluation report concluded that Regulation (EEC) No 337/75 should be amended to include Cedefop's work on skills as one of its tasks and to integrate more clearly its work on policy reporting and common European tools and initiatives.
- (4) Supporting the implementation of a vocational education and training policy will require a focus on the interface between education and training and the world of work in order to ensure that the knowledge, skills and competencies acquired support lifelong learning, integration and employability in changing labour markets and are relevant to the needs of citizens and society.
- (5) Regulation (EEC) No 337/75 has been amended several times. Since further amendments are to be made, that Regulation should be repealed and replaced in the interest of clarity.
- (6) The rules governing Cedefop should, to the extent possible and taking into account its tripartite nature, be established in accordance with the principles of the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies of 19 July 2012.

⁽¹⁾ OJ C 209, 30.6.2017, p. 49.

⁽²⁾ Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 20 December 2018.

⁽³⁾ Regulation (EEC) No 337/75 of the Council of 10 February 1975 establishing a European Centre for the Development of Vocational Training (OJ L 39, 13.2.1975, p. 1).

- (7) As the three tripartite agencies, namely Cedefop, the European Foundation for the improvement of living and working conditions (Eurofound) and the European Agency for Safety and Health at Work (EU-OSHA), address issues related to the labour market, the working environment, vocational education and training, and skills, close coordination among them is required. Close coordination with the European Training Foundation (ETF) is also required. In its work, Cedefop should therefore complement the work of ETF, Eurofound and EU-OSHA where they have similar fields of interest, while favouring tools that function well, such as memoranda of understanding. Cedefop should exploit ways to enhance efficiency and synergies and, in its activities, avoid duplication with those of ETF, Eurofound and EU-OSHA and of the Commission. In addition, where relevant, Cedefop should seek to cooperate efficiently with the in-house research capacities of the Union institutions and of external specialised bodies.
- (8) The Commission should consult the main stakeholders including members of the Management Board and members of the European Parliament during the evaluation of Cedefop.
- (9) The tripartite nature of Cedefop, Eurofound and EU-OSHA is a highly valuable expression of a comprehensive approach based on the social dialogue between the social partners and Union and national authorities, which is extremely important for the purpose of finding joint and sustainable social and economic solutions.
- (10) In order to streamline the decision-making process of Cedefop and to contribute to enhancing efficiency and effectiveness, a two-level governance structure should be introduced. To that end, the Member States, the national employers' and employees' organisations and the Commission should be represented on a Management Board vested with the necessary powers, including the power to adopt the budget and approve the programming document. In the programming document, containing Cedefop's multiannual work programme and its annual work programme, the Management Board should lay down the strategic priorities of Cedefop's activities. Moreover, the rules adopted by the Management Board for the prevention and management of conflicts of interests should include measures for detecting potential risks at an early stage.
- (11) In order for Cedefop to function properly, the Member States, the European employers' and employees' organisations and the Commission should ensure that persons to be appointed to the Management Board have appropriate knowledge in the field of vocational education and training, skills and qualifications with a view to making strategic decisions, and to overseeing Cedefop's activities.
- (12) The Executive Board should be set up with the task of preparing the meetings of the Management Board in an appropriate manner and supporting its decision-making and monitoring processes. In assisting the Management Board, it should be possible for the Executive Board, where necessary, for reasons of urgency, to take certain provisional decisions on behalf of the Management Board. The Management Board should adopt the rules of procedure of the Executive Board.
- (13) The Executive Director should be responsible for the overall management of Cedefop in accordance with the strategic direction set by the Management Board, including day-to-day administration as well as financial and human resources management. The Executive Director should exercise the powers entrusted to him or her. It should be possible to suspend those powers in exceptional circumstances, such as conflicts of interests or a serious failure to comply with obligations under the Staff Regulations of Officials of the European Union (Staff Regulations).
- (14) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men must be 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 Executive Board. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together, as well as by the groups representing the governments and the employers' and employees' organisations on the Management Board with regard to the designation of alternates to attend the meetings of the Executive Board.
- (15) Cedefop operates a liaison office in Brussels. The possibility of operating that office should be maintained.
- (16) The financial provisions and provisions for programming and reporting relating to Cedefop should be updated. Commission Delegated Regulation (EU) No 1271/2013⁽⁴⁾ provides that Cedefop is to carry out *ex ante* and *ex post* evaluations of those programmes and activities that entail significant spending. Those evaluations should be taken into account by Cedefop in its multiannual and annual programming.

⁽⁴⁾ 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).

- (17) In order to ensure its full autonomy and independence and to enable it properly to carry out its objectives and tasks in accordance with this Regulation, Cedefop should be granted an adequate and autonomous budget with revenue stemming mainly from a contribution from the general budget of the Union. The Union budgetary procedure should be applicable to Cedefop as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. Cedefop's accounts should be audited by the Court of Auditors.
- (18) The translation services required for Cedefop's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). Cedefop should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly Cedefop's needs and priorities, and create transparent and objective procedures for the translation process.
- (19) Provisions concerning Cedefop's staff should be in line with the Staff Regulations and the Conditions of Employment of Other Servants of the Union (Conditions of Employment of Other Servants) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽⁵⁾.
- (20) Cedefop should take the necessary measures to ensure the safe handling and processing of confidential information. Where required, Cedefop should adopt security rules equivalent to those set out in Commission Decisions (EU, Euratom) 2015/443 ⁽⁶⁾ and (EU, Euratom) 2015/444 ⁽⁷⁾.
- (21) It is necessary to lay down transitional budgetary provisions and transitional provisions with regard to the Management Board and staff to ensure the continuation of Cedefop's activities pending the implementation of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES AND TASKS

Article 1

Establishment and objectives

1. The European Centre for the Development of Vocational Training (Cedefop) is hereby established as a Union Agency.
2. Cedefop's objective shall be to support the promotion, development and implementation of Union policies in the field of vocational education and training as well as skills and qualifications policies by working together with the Commission, the Member States and the social partners.

To that end Cedefop shall enhance and disseminate knowledge, provide evidence and services for the purpose of policy making, including research-based conclusions, and shall facilitate knowledge sharing among and between Union and national actors.

Article 2

Tasks

1. Cedefop shall have the following tasks with respect to the policy areas referred to in Article 1(2), while fully respecting the responsibilities of the Member States:
 - (a) analyse trends in vocational education and training, skills and qualification policies and systems, and provide comparative analyses thereof across countries;
 - (b) analyse labour market trends in relation to skills and qualifications, and vocational education and training;
 - (c) analyse and contribute to developments related to the design and award of qualifications, their organisation into frameworks, and their function in the labour market, and in relation to vocational education and training, with a view to enhancing their transparency and recognition;

⁽⁵⁾ OJ L 56, 4.3.1968, p. 1.

⁽⁶⁾ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁽⁷⁾ 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).

- (d) analyse and contribute to developments in the field of validation of non-formal and informal learning;
- (e) carry out or commission studies and carry out research on relevant socioeconomic developments and related policy issues;
- (f) provide forums for exchange of experiences and information between the governments, the social partners and other stakeholders at national level;
- (g) contribute, including through evidence-based information and analyses, to the implementation of reforms and policies at national level;
- (h) disseminate information with a view to contributing to policies and to raising awareness and understanding of the potential of vocational education and training in promoting and supporting the employability of people, productivity and lifelong learning;
- (i) manage and make available tools, datasets and services for vocational education and training, skills, occupations and qualifications to citizens, companies, policy makers, the social partners and other stakeholders;
- (j) establish a strategy for relations with third countries and international organisations in accordance with Article 29 concerning matters for which Cedefop is competent.

2. Where new studies are needed, and before taking policy decisions, the Union institutions shall take into account Cedefop's expertise and any studies that it has conducted in the area concerned or that it is able to conduct, in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾.

3. In its activities, Cedefop shall take into account the links which exist between vocational education and training and the other sectors of education and training.

4. Cedefop may conclude cooperation agreements with other relevant Union agencies in order to facilitate and promote cooperation with them.

5. In carrying out its tasks, Cedefop shall maintain a close dialogue particularly with specialised bodies, working on vocational education and training and skills and qualifications policies, whether public or private, national or international, with public authorities and educational institutions, with employers' and employees' organisations, and with national tripartite bodies where they exist. Without prejudice to its objectives and purposes, Cedefop shall cooperate with other Union agencies, in particular the ETF, Eurofound and EU-OSHA, promoting synergies and complementarity with their activities, while avoiding any duplication of efforts.

CHAPTER II

ORGANISATION OF CEDEFOP

Article 3

Administrative and management structure

Cedefop's administrative and management structure shall comprise:

- (a) a Management Board;
- (b) an Executive Board;
- (c) an Executive Director.

SECTION 1

Management Board

Article 4

Composition of the Management Board

1. The Management Board shall be composed of:

- (a) one member, representing the government, from each Member State;
- (b) one member, representing the employers' organisations, from each Member State;

⁽⁸⁾ 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).

- (c) one member, representing the employees' organisations, from each Member State;
- (d) three members representing the Commission;
- (e) one independent expert appointed by the European Parliament.

Each of the members referred to in points (a) to (d) shall have the right to vote.

The Council shall appoint the members referred to in points (a), (b) and (c) on the basis of candidates designated, respectively, by the Member States and European employers' and employees' organisations.

The Commission shall appoint the members referred to in point (d).

The responsible committee of the European Parliament shall appoint the expert referred to in point (e).

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in the member's absence. The alternates shall be appointed in accordance with paragraph 1.

3. Members of the Management Board and their alternates shall be designated and appointed on the basis of their knowledge in the field of vocational education and training, skills and qualifications, taking into account their relevant skills such as managerial, administrative and budgetary skills and expertise in the area of Cedefop's core tasks, in order to carry out an effective oversight role. 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. Cedefop 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. Upon expiry of their term of office or in the event of their resignation, members and alternates shall remain in office until their appointments are renewed or until they are replaced.

6. On the Management Board, the representatives of the governments, of the employers' organisations and of the employees' organisations shall each form a group. Each group shall designate a coordinator in order to enhance the efficiency of deliberations within and between the groups. The coordinators of the employers' and of the employees' groups shall be representatives of their respective European organisations and may be designated from among the appointed members of the Management Board. Coordinators who are not appointed members of the Management Board in accordance with paragraph 1 shall take part in Management Board meetings without the right to vote.

Article 5

Functions of the Management Board

1. The Management Board shall:

- (a) provide the strategic orientations for Cedefop's activities;
- (b) adopt each year, by a majority of two thirds of members with the right to vote and in accordance with Article 6, Cedefop's programming document, containing Cedefop's multiannual work programme and its annual work programme for the following year;
- (c) adopt, by a majority of two thirds of the members with the right to vote, Cedefop's annual budget and exercise other functions in respect of that budget pursuant to Chapter III;
- (d) adopt a consolidated annual activity report together with an assessment of Cedefop's activities, submit them 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;
- (e) adopt the financial rules applicable to Cedefop in accordance with Article 16;
- (f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

- (g) adopt rules for the prevention and management of conflicts of interests in respect of its members and independent experts, as well as of seconded national experts and other staff not employed by Cedefop as referred to in Article 19;
- (h) adopt and regularly update the communication and dissemination plans based on an analysis of needs and reflect this in Cedefop's programming document;
- (i) adopt its rules of procedure;
- (j) exercise, in accordance with paragraph 2, with respect to Cedefop's staff, 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 of Other Servants (the 'appointing authority powers');
- (k) adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- (l) appoint and, where relevant, extend the term of office of the Executive Director or remove him or her from office, in accordance with Article 18;
- (m) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be fully independent in the performance of his or her duties;
- (n) adopt the rules of procedure of the Executive Board;
- (o) monitor adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);
- (p) authorise the establishment of cooperation arrangements with the competent authorities of third countries and with international organisations in accordance with Article 29.

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 on Article 6 of the Conditions of Employment of Other Servants, 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.

Where exceptional circumstances so require, the Management Board may temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director. In such cases the Management Board shall delegate them, for a limited period, to one of the representatives of the Commission whom it nominates or to a staff member other than the Executive Director.

Article 6

Multiannual and annual programming

1. Each year, the Executive Director shall, in accordance with point (e) of Article 11(5) of this Regulation, draw up a draft programming document containing a multiannual and an annual work programme in accordance with Article 32 of Delegated Regulation (EU) No 1271/2013.

2. The Executive Director shall submit the draft programming document referred to in paragraph 1 to the Management Board. Following approval by the Management Board, the draft programming document shall be submitted to the Commission, the European Parliament and the Council no later than 31 January each year. The Executive Director shall submit any updated versions of that document in accordance with the same procedure. The Management Board shall adopt the programming document taking into account the Commission's opinion.

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

3. The multiannual work programme shall set out overall strategic programming including objectives, expected results and performance indicators avoiding programming overlaps with other agencies. It shall also set out resource programming including multiannual budget and staff. It shall include a strategy for relations with third countries and international organisations in accordance with Article 29, the actions linked to this strategy, and a specification of associated resources.

4. The annual work programme shall be consistent with the multiannual work programme referred to in paragraph 3 and shall comprise:

- (a) detailed objectives and expected results including performance indicators;

- (b) a description of the actions to be financed, including planned measures that aim to increase efficiency;
- (c) an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management;
- (d) possible actions for relations with third countries and international organisations in accordance with Article 29.

It shall clearly indicate actions that have been added, changed or deleted in comparison with the previous financial year.

5. The Management Board shall amend the adopted annual work programme where a new activity is assigned to Cedefop. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme.

6. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and shall, in particular address the outcome of the evaluation referred to in Article 27.

The assignment to Cedefop of a new activity for the purpose of fulfilling the tasks laid down in Article 2 shall be taken into account in its resource and financial programming, without prejudice to the powers of the European Parliament and the Council (the 'budgetary authority').

Article 7

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and three Deputy Chairpersons as follows:
 - (a) one from among the members representing the governments of the Member States;
 - (b) one from among the members representing the employers' organisations;
 - (c) one from among the members representing the employees' organisations; and
 - (d) one from among the members representing the Commission.

The Chairperson and the Deputy Chairpersons shall be elected by a majority of two thirds of members of the Management Board with the right to vote.

2. The term of office of the Chairperson and the Deputy Chairpersons shall be one year. Their term of office shall be renewable. Where 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 8

Meetings of the Management Board

1. The Chairperson shall convene meetings of the Management Board.
2. The Executive Director shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold one ordinary meeting a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission or at the request of at least one-third of its members.
4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer. Representatives of European Free Trade Association (EFTA) countries which are parties to the Agreement on the European Economic Area (EEA Agreement) may attend the meetings of the Management Board as observers where the EEA Agreement provides for their participation in Cedefop's activities.
5. Cedefop shall provide the secretariat for the Management Board.

*Article 9***Voting rules of the Management Board**

1. Without prejudice to points (b) and (c) of Article 5(1), the second subparagraph of Article 7(1) and Article 18(7), 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 Chairperson shall take part in the voting.
4. The Executive Director shall take part in the deliberations, without the right to vote.
5. 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.

*SECTION 2***Executive Board***Article 10***Executive Board**

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
 - (a) prepare decisions to be adopted by the Management Board;
 - (b) monitor, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;
 - (c) without prejudice to the responsibilities of the Executive Director, as set out in Article 11, advise him or her, where necessary, in the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.
3. Where necessary, for reasons of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, including on the suspension of the delegation of the appointing authority powers in accordance with the conditions referred to in Article 5(2) and on budgetary matters.
4. The Executive Board shall be composed of the Chairperson of the Management Board, the three Deputy Chairpersons, the coordinators of the three groups referred to in Article 4(6) and one representative of the Commission. Each group referred to in Article 4(6) may designate up to two alternates to attend the meetings of the Executive Board in the event that a member appointed by the relevant group is absent. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board without the right to vote.
5. The term of office of members of the Executive Board shall be two years. That term shall be renewable. The term of office of a member of the Executive Board shall end on the date on which his or her membership of the Management Board ends.
6. The Executive Board shall meet three times a year. In addition, it shall meet on the initiative of the Chairperson or at the request of its members. Following each meeting, the coordinators of the three groups referred to in Article 4(6) shall use best efforts to inform members of their own group of the content of the discussion in a timely and transparent manner.

*SECTION 3***Executive Director***Article 11***Responsibilities of the Executive Director**

1. The Executive Director shall be responsible for the management of Cedefop in accordance with the strategic direction set by the Management Board and shall be accountable to the Management Board.

2. Without prejudice to the powers of the Commission, the Management Board, and the Executive Board, the Executive Director shall be independent in the performance of the duties and shall neither seek nor take instructions from any government or any other body.
3. The Executive Director shall report to the European Parliament on the performance of his or her duties where invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
4. The Executive Director shall be the legal representative of Cedefop.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to Cedefop by this Regulation. In particular, the Executive Director shall be responsible for:
 - (a) the day-to-day administration of Cedefop, including exercising the powers entrusted to him or her in respect of staff matters in accordance with Article 5(2);
 - (b) implementing decisions adopted by the Management Board;
 - (c) in accordance with the decision referred to in Article 5(2), taking decisions with regard to the management of human resources;
 - (d) taking into account the needs relating to Cedefop's activities and sound budgetary management, deciding on Cedefop's internal structures including, where necessary, deputising functions which may cover Cedefop's day-to-day management;
 - (e) preparing the programming document and submitting it to the Management Board after consulting the Commission;
 - (f) implementing the programming document and reporting to the Management Board on its implementation;
 - (g) preparing the consolidated annual report on Cedefop's activities and presenting it to the Management Board for assessment and adoption;
 - (h) establishing an effective monitoring system to enable the regular evaluations referred to in Article 27 to be carried out and a reporting system to summarise their results;
 - (i) preparing draft financial rules applicable to Cedefop;
 - (j) preparing Cedefop's draft statement of estimates of revenue and expenditure, as part of Cedefop's programming document; and implementing Cedefop's budget;
 - (k) 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 and the Executive Board;
 - (l) aiming to ensure gender balance within Cedefop;
 - (m) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;
 - (n) preparing an anti-fraud strategy for Cedefop and presenting it to the Management Board for approval;
 - (o) where relevant, cooperating with other Union agencies and concluding cooperation agreements with them.
6. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out Cedefop's tasks in an efficient and effective manner to establish a liaison office in Brussels to further Cedefop's cooperation with the relevant Union institutions. That decision shall require the prior consent of the Commission, the Management Board and the relevant Member State. That decision shall specify the scope of the activities to be carried out by that liaison office in a manner that avoids unnecessary costs and any duplication of Cedefop's administrative functions.

CHAPTER III

FINANCIAL PROVISIONS

Article 12

Budget

1. Estimates of all revenue and expenditure for Cedefop shall be prepared each financial year and shall be shown in Cedefop's budget. The financial year shall correspond to the calendar year.

2. Cedefop's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, Cedefop'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) charges for publications and any service provided by Cedefop;
 - (d) any contribution from third countries participating in the work of Cedefop as provided for in Article 29.
4. The expenditure of Cedefop shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

Article 13

Establishment of the budget

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

The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 6(1) 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.

2. The Management Board shall, on the basis of the provisional draft estimate, adopt a draft estimate of Cedefop's revenue and expenditure for the following financial year, and shall send it to the Commission by 31 January each year.
3. 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 Cedefop.
4. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimate 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 of the Treaty on the Functioning of the European Union (TFEU).
5. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to Cedefop.
6. The budgetary authority shall adopt Cedefop's establishment plan.
7. Cedefop's budget shall be adopted by the Management Board. It shall become definitive following final adoption of the general budget of the Union and, if necessary, shall be adjusted accordingly. Any modification to Cedefop's budget, including the establishment plan, shall be adopted in accordance with the same procedure.
8. For any building project likely to have significant implications for Cedefop's budget, Delegated Regulation (EU) No 1271/2013 shall apply.

Article 14

Implementation of the budget

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

Article 15

Presentation of accounts and discharge

1. Cedefop'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. Cedefop shall send a 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.
3. The Commission's accounting officer shall send Cedefop's provisional accounts for year N, consolidated with the Commission's accounts, to the Court of Auditors by 31 March of year N + 1.
4. On receipt of the Court of Auditors' observations on Cedefop's provisional accounts for year N, pursuant to Article 246 of Regulation (EU, Euratom) 2018/1046, the accounting officer shall draw up Cedefop's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on Cedefop's final accounts for year N.
6. Cedefop'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. The final accounts for year N 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 the reply to the Management Board.
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 109(3) of Delegated Regulation (EU) No 1271/2013.
10. On a recommendation from the Council acting by a 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.

Article 16

Financial rules

The financial rules applicable to Cedefop 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 Cedefop's operation and the Commission has given its prior consent.

CHAPTER IV

STAFF

Article 17

General provisions

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants shall apply to Cedefop's staff.
2. The Management Board shall adopt appropriate implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.

Article 18

Executive Director

1. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of Cedefop under point (a) of Article 2 of the Conditions of Employment of Other Servants.
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.

For the purpose of concluding the contract with the Executive Director, Cedefop shall be represented by the Chairperson of the Management Board.

3. 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 Cedefop's future tasks and challenges.
4. The Management Board may, taking into account the assessment referred to in paragraph 3, extend the Executive Director's term of office once for no more than five years.
5. Where the term of office of an Executive Director has been extended, he or she shall not participate in another selection procedure for the same post at the end of the overall period.
6. 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 3.
7. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of members with the right to vote.

Article 19

Seconded national experts and other staff

1. Cedefop may make use of seconded national experts or other staff not employed by Cedefop.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to Cedefop.

CHAPTER V

GENERAL PROVISIONS

Article 20

Legal status

1. Cedefop shall be a Union agency. It shall have legal personality.
2. In each of the Member States, Cedefop shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.
3. Cedefop shall have its seat in Thessaloniki.
4. Cedefop may establish a liaison office in Brussels to further its cooperation with the relevant Union institutions in accordance with Article 11(6).

Article 21

Privileges and immunities

Protocol No 7 on the Privileges and Immunities of the European Union shall apply to Cedefop and its staff.

Article 22

Language arrangements

1. The provisions laid down in Council Regulation No 1 ⁽⁹⁾ shall apply to Cedefop.
2. The translation services required for Cedefop's functioning shall be provided by the Translation Centre.

⁽⁹⁾ Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

*Article 23***Transparency and data protection**

1. Cedefop shall carry out its activities with a high level of transparency.
2. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁰⁾ shall apply to documents held by Cedefop.
3. 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.
4. The processing of personal data by Cedefop shall be subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹¹⁾. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EU) 2018/1725 by Cedefop, including those concerning the appointment of a Data Protection Officer. Those measures shall be established after consulting the European Data Protection Supervisor.

*Article 24***Combating fraud**

1. In order to facilitate the fight against fraud, corruption and other illegal activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹²⁾, Cedefop shall, by 21 August 2019, 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) ⁽¹³⁾ and shall adopt appropriate provisions applicable to all its employees 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 of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds from Cedefop.
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 agreement or grant decision or a contract funded by Cedefop, 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 ⁽¹⁴⁾.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of Cedefop shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

*Article 25***Security rules on the protection of classified and sensitive non-classified information**

Cedefop shall adopt security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, set out in Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444, where required. Cedefop's security rules shall cover, inter alia, and where appropriate, provisions for the exchange, processing and storage of such information.

⁽¹⁰⁾ 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).

⁽¹¹⁾ 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).

⁽¹²⁾ 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).

⁽¹³⁾ OJ L 136, 31.5.1999, p. 15.

⁽¹⁴⁾ 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).

*Article 26***Liability**

1. Cedefop's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union (Court of Justice) shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by Cedefop.
3. In the case of non-contractual liability, Cedefop 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 relating to compensation for damage as referred to in paragraph 3.
5. The personal liability of its staff towards Cedefop shall be governed by the provisions laid down in the Staff Regulations and in the Conditions of Employment of Other Servants.

*Article 27***Evaluation**

1. In accordance with Article 29(5) of Delegated Regulation (EU) No 1271/2013, Cedefop shall carry out *ex ante* and *ex post* evaluations of those programmes and activities that entail significant spending.
2. By 21 February 2024, and every five years thereafter, the Commission shall ensure that an evaluation is carried out in accordance with the Commission guidelines to assess Cedefop's performance in relation to its objectives, mandate and tasks. The Commission shall consult members of the Management Board and the other main stakeholders during its evaluation. The evaluation shall, in particular, address the possible need to amend the mandate of Cedefop, and the financial implications of any such amendments.
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 28***Administrative inquiries**

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

*Article 29***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 respective competences of the Member States and of the Union institutions, Cedefop may cooperate with the competent authorities of third countries and with international organisations.

To that end, Cedefop 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 incumbent on the Union or the Member States.

2. Cedefop 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 Cedefop, including provisions relating to participation in the initiatives carried out by Cedefop, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

3. The Management Board shall adopt a strategy for relations with third countries and international organisations concerning matters for which Cedefop is competent.

*Article 30***Headquarters Agreement and operating conditions**

1. The necessary arrangements concerning the accommodation to be provided for Cedefop in the host Member State and the facilities to be made available by that 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 Cedefop and Member State where the seat is located.
2. Cedefop's host Member State shall provide the necessary conditions to ensure Cedefop's functioning, including multilingual, European-oriented schooling and appropriate transport connections.

CHAPTER VI

TRANSITIONAL PROVISIONS*Article 31***Transitional provisions concerning the Management Board**

The members of the Governing Board established on the basis of Article 4 of Regulation (EEC) No 337/75 shall remain in office and exercise the functions of the Management Board as referred to in Article 5 of this Regulation until the appointment of the members of the Management Board and of the independent expert pursuant to Article 4(1) of this Regulation.

*Article 32***Transitional provisions concerning the staff**

1. Cedefop's Director, appointed on the basis of Article 6 of Regulation (EEC) No 337/75, shall, for the remaining periods of his or her term of office, be assigned to the responsibilities of the Executive Director as provided for in Article 11 of this Regulation. The other conditions of his or her contract shall remain unchanged.
2. In the case of an ongoing selection and appointment procedure of the Executive Director at the time of the entry into force of this Regulation, Article 6 of the Regulation (EEC) No 337/75 shall apply until the finalisation of that procedure.
3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EEC) No 337/75. Their employment contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment of Other Servants.

Any liaison office of Cedefop which is operational at the time of entry into force of this Regulation shall be maintained.

*Article 33***Transitional budgetary provisions**

The discharge procedure in respect of the budgets approved on the basis of Article 11 of Regulation (EEC) No 337/75 shall be carried out in accordance with Article 12a of that Regulation.

CHAPTER VII

FINAL PROVISIONS*Article 34***Repeal**

Regulation (EEC) No 337/75 is repealed and all references to the repealed Regulation shall be construed as references to this Regulation.

*Article 35***Maintenance in force of the internal rules adopted by the Governing Board**

Internal rules adopted by the Governing Board on the basis of Regulation (EEC) No 337/75 shall remain in force after 20 February 2019, unless otherwise decided by the Management Board in the application of this Regulation.

*Article 36***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 all Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

REGULATION (EU) 2019/129 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 January 2019****amending Regulation (EU) No 168/2013 as regards the application of the Euro 5 step to the type-approval of two- or three-wheel vehicles and quadricycles**

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 Article 114 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 ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) On the basis of the Commission report to the European Parliament and the Council on the comprehensive effect study of the environmental step Euro 5 for L-category vehicles ('the effect study') carried out under Article 23(4) of Regulation (EU) No 168/2013 of the European Parliament and of the Council ⁽³⁾ and taking into account issues encountered by approval authorities and stakeholders in applying that Regulation, certain changes and clarifications should be made in Regulation (EU) No 168/2013 in order to ensure its smooth application.
- (2) Regarding the requirement to install an on-board diagnostic (OBD) stage II system, which ensures the monitoring and reporting on the emission control system failures and degradation, the Commission concluded on the basis of the effect study that there are technical limitations with respect to catalyst monitoring for certain vehicles and that further development is required to ensure its correct implementation. Catalyst monitoring is not expected to be ready for the first round of the Euro 5 emission step, but is envisaged for 2025. Article 21 of Regulation (EU) No 168/2013 should therefore provide for the lead time needed to ensure the correct implementation of the OBD stage II system requirement.
- (3) Given that vehicles of categories L1e and L2e are already excluded from the requirement to be equipped with an OBD stage I system, the vehicles of category L6e, which are designed and built around moped specifications and produced in rather small volumes, should also be exempted from that requirement.
- (4) It is necessary to clarify the exemption for vehicles of categories L1e and L2e from the requirement to be equipped with an OBD stage II system and to extend that exemption to light quadricycles (L6e category) and to the enduro (L3e-AxE) and trial (L3e-AxT) motorcycle subcategories.
- (5) Enduro and trial motorcycles have a short lifespan and are very similar in nature and use to heavy all-terrain quad (L7e-B) which are exempted from the requirement to be equipped with an OBD stage II system. That exemption should therefore be extended to enduro and trial motorcycles.
- (6) The Commission concluded in the effect study that the mathematical durability procedure set out in point (c) of Article 23(3) of Regulation (EU) No 168/2013, whereby vehicles are tested after 100 km of use, does not reflect the real degradation of the emission control system of a vehicle during its lifetime. That method should no longer be used and should be phased out by 2025 to provide sufficient lead time to stakeholders to adapt. For the period until 2025, the required accumulated distance travelled by the vehicle before it is tested should be raised to ensure that the test results are reliable.

⁽¹⁾ OJ C 367, 10.10.2018, p. 32.

⁽²⁾ Position of the European Parliament of 29 November 2018 (not yet published in the Official Journal) and Decision of the Council of 17 December 2018.

⁽³⁾ Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52).

- (7) The technology that is necessary to meet the Euro 5 limits is already available. However the Commission concluded in the effect study, that the date of application of the Euro 5 emission limits for certain L-category vehicles (L6e-B, L2e-U, L3e-AxT and L3e-AxE) will need to be postponed from 2020 to 2024 to increase the cost-benefit ratio compared to the base line. In addition, manufacturers of those vehicles, which are mainly SMEs, require more lead time to ensure that the transition towards zero emission powertrains, such as electrification, can be achieved in a cost effective way.
- (8) Article 30 of Regulation (EU) No 168/2013 requires that an EU type-approval certificate contains, as an attachment, the test results. In the interests of clarity, that provision should be amended in order to make clear that what is being referred to is the test results sheet.
- (9) Certain inconsistencies in the date of application of the sound level limits for Euro 5 in Annex IV to Regulation (EU) No 168/2013 should be clarified to ensure that the existing limits (Euro 4) remain applicable until the new limits for Euro 5 can be established.
- (10) Regulation (EU) No 168/2013 empowered the Commission to adopt delegated acts for a period of five years, which expired on 21 March 2018. As there is a continuous need to update elements of the type-approval legislation to technical progress or to introduce other amendments in line with the empowerments, that Regulation should be amended to provide for the extension of the delegation for another five years with the possibility of tacit extension.
- (11) In the interest of legal certainty, the empowerment in Regulation (EU) No 168/2013 for the Commission to adopt delegated acts concerning the technical requirements related to on-board diagnostics should be made clearer and more precise.
- (12) Since this Regulation amends Regulation (EU) No 168/2013 without expanding its regulatory content and since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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.
- (13) Regulation (EU) No 168/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 168/2013 is amended as follows:

- (1) Article 21 is replaced by the following:

'Article 21

General requirements of on-board diagnostic systems

1. L-category vehicles, with the exception of L1e, L2e and L6e vehicles, shall be equipped with an OBD system which complies with the functional requirements and test procedures laid down in the delegated acts referred to in paragraph 8 and as from the application dates set out in Annex IV.
2. From the dates set out in point 1.8.1 of Annex IV, vehicle categories and subcategories L3e, L4e, L5e-A and L7e-A shall be equipped with an OBD stage I system which monitors any electric circuit and electronics failure of the emission control system and reports those failures which result in the emission thresholds laid down in Annex VI (B1) being exceeded.
3. From the dates set out in point 1.8.2 of Annex IV, vehicle categories and subcategories L3e, L4e, L5e and L7e shall be equipped with an OBD stage I system which monitors any electric circuit and electronics failure of the emission control system and which triggers a report when the emission thresholds laid down in Annex VI (B1) are exceeded. OBD stage I systems for those vehicle categories and subcategories shall also report the triggering of any operating mode which significantly reduces engine torque.

4. From the dates set out in point 1.8.3 of Annex IV, vehicle categories L3e, L4e, L5e and L7e shall be equipped with an OBD stage I system which monitors any electric circuit and electronics failure of the emission control system and which triggers a report when the emission thresholds laid down in Annex VI (B2) are exceeded. OBD stage I systems for those vehicle categories shall also report the triggering of any operating mode which significantly reduces engine torque.

5. From the dates set out in point 1.8.4 of Annex IV, vehicle categories and subcategories L3e, L4e, L5e-A and L7e-A shall in addition be equipped with an OBD stage II system which monitors and reports emission control system failures and degradation, with the exception of catalyst monitoring, which result in the OBD emission thresholds laid down in Annex VI (B1) being exceeded.

6. From the dates set out in point 1.8.5 of Annex IV, vehicle categories and subcategories L3e, L4e, L5e-A and L7e-A shall in addition be equipped with an OBD stage II system which monitors and reports emission control system failures and degradation which result in the OBD emission thresholds laid down in Annex VI (B2) being exceeded.

7. Paragraphs 5 and 6 shall not apply to enduro motorcycles in subcategory L3e-AxE and trial motorcycles in subcategory L3e-AxT.

8. In order to harmonise the OBD system reporting of functional safety or emission control system faults and facilitate effective and efficient repair of a vehicle, the Commission is empowered to adopt delegated acts in accordance with Article 75 supplementing this Regulation by laying down the detailed technical requirements related to on-board diagnostics with respect to vehicle categories and subcategories as set out in Annex II, C1 – Vehicle construction and general type-approval requirements, the row relating to No 11, including functional OBD requirements and test procedures for the subjects listed in paragraphs 1 to 7 of this Article, and the detailed technical requirements related to test type VIII referred to in Annex V.;

(2) in Article 23(3), point (c) is replaced by the following:

‘(c) mathematical durability procedure:

Until 31 December 2024, for each emission constituent, the product of the multiplication of the deterioration factor set out in Annex VII (B) and the environmental performance test result of a vehicle which has accumulated more than 100 km after it was first started at the end of the production line shall be lower than the environmental performance test limit set out in Annex VI (A).

Notwithstanding the first subparagraph, for new types of vehicles from 1 January 2020 and for existing types of vehicles from 1 January 2021 until 31 December 2024, for each emission constituent the product of the multiplication of the deterioration factor set out in Annex VII (B) and the environmental performance test result of a vehicle which has accumulated more than 2 500 km for a vehicle with a maximum design vehicle speed of < 130 km/h and 3 500 km for a vehicle with a maximum design vehicle speed of ≥ 130 km/h after it was first started at the end of the production line shall be lower than the tailpipe emission limit set out in Annex VI (A).;

(3) in Article 30(1), point (b) is replaced by the following:

‘(b) the test results sheet.;

(4) in Article 44(1), the second subparagraph is replaced by the following:

‘The first subparagraph shall apply only to vehicles within the territory of the Union which were covered by a valid EU type-approval at the time of their production, but which neither were registered nor entered into service before that EU type-approval lost its validity.;

(5) Article 75(2) is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 18(3), Article 20(2), Article 21(8), Article 22(5) and (6), Article 23(6) and (12), Article 24(3), Article 25(8), Article 32(6), Article 33(6), Article 50(4), Article 54(3), Article 57(12), Article 65 and Article 74 shall be conferred on the Commission for a period of five years from 22 March 2013. The delegation of power shall be tacitly extended for periods of five years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegation of power not later than 22 June 2022 and nine months before the end of each following five-year period.;

(6) Annexes II, IV, V and VI are amended in accordance with the Annex to this Regulation.

Article 2

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 all Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

ANNEX

Annexes II, IV, V and VI to Regulation (EU) No 168/2013 are amended as follows:

(1) in Annex II, section C1, in the row relating to No 11, the sign 'X' is deleted for subcategories L6e-A and L6e-B;

(2) in Annex IV, the table is amended as follows:

(a) points 1.1.2.1, 1.1.2.2 and 1.1.2.3 are replaced by the following:

1.1.2.1	Euro 4: Annex VI A1	L1e, L2e, L6e	1.1.2017	1.1.2018	31.12.2020; for L2e-U and L6e-B: 31.12.2024
1.1.2.2.	Euro 4: Annex VI A1	L3e, L4e, L5e, L7e	1.1.2016	1.1.2017	31.12.2020; for L3e-AxE and L3e-AxT 31.12.2024
1.1.2.3.	Euro 5: Annex VI A2	L1e-L7e	1.1.2020; for L2e-U, L3e-AxE, L3e-AxT and L6e-B: 1.1.2024	1.1.2021; for L2e-U, L3e-AxE, L3e-AxT and L6e-B: 1.1.2025';	

(b) points 1.8.1, 1.8.2 and 1.8.3 are replaced by the following:

1.8.1.	OBD stage I functional requirements	L3e, L4e, L5e-A, L7e-A	1.1.2016	1.1.2017	31.12.2020
	OBD stage I environmental test procedure (test type VIII)				
	OBD stage I environmental test thresholds, Annex VI (B1)				
1.8.2	OBD stage I functional requirements including any operating mode which significantly reduces engine torque	L3e, L4e, L5e, L7e	1.1.2020	1.1.2021	31.12.2024
	OBD stage I environmental test procedure (test type VIII)				
	OBD stage I environmental test thresholds, Annex VI (B1)				
1.8.3	OBD stage I functional requirements including any operating mode which significantly reduces engine torque	L3e, L4e, L5e, L7e	1.1.2024	1.1.2025'	
	OBD stage I environmental test procedure (test type VIII)				
	OBD stage I environmental test thresholds, Annex VI (B2)				

(c) the following points are inserted:

1.8.4.	OBD stage II functional requirements with the exception of catalyst monitoring	L3e (except L3e-AxE and L3e-AxT), L4e, L5e-A, L7e-A	1.1.2020	1.1.2021	31.12.2024
	OBD stage II environmental test procedures (test type VIII)				
	OBD stage II environmental test thresholds, Annex VI (B1)				
1.8.5.	OBD stage II functional requirements,	L3e (except L3e-AxE and L3e-AxT), L4e, L5e-A, L7e-A	1.1.2024	1.1.2025'	
	OBD stage II environmental test procedures (test type VIII),				
	OBD stage II environmental test thresholds, Annex VI (B2)				

(d) points 1.9.1 and 1.9.2 are replaced by the following:

1.9.1.	Sound level test procedure and limit values Annex VI (D)	L1e, L2e, L6e	1.1.2017	1.1.2018	
1.9.2.	Sound level test procedure and limit values ⁽³⁾ , Annex VI (D)	L3e, L4e, L5e, L7e	1.1.2016	1.1.2017'	

(e) point 1.9.4 is replaced by the following:

1.9.4.	UNECE regulations Nos 9, 41, 63, 92 and associated new limit values proposed by the Commission	L1e-L7e'			
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(3) in Annex V, section B, the content of the cell in the first column, second row, is replaced by the following:

'Type I test ⁽¹⁹⁾ Particulate mass (Euro 5 only)';

(4) Annex VI is amended as follows:

(a) in section B1, the first row, referring to Vehicle category 'L6e-A', is deleted;

(b) in section B2, first row:

(i) the words 'L3e-L7e ⁽⁶⁾' are replaced by the following:

'L3e, L4e, L5e, L7e';

(ii) the words 'All L category vehicles except category L1e and L2e' are replaced by the following:

'All L category vehicles except category L1e, L2e and L6e'.

DIRECTIVES

DIRECTIVE (EU) 2019/130 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 January 2019

amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work

(Text with EEA relevance)

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 point (b) of Article 153(2), in conjunction with point (a) of Article 153(1) 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 ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Directive 2004/37/EC of the European Parliament and of the Council ⁽³⁾ aims to protect workers against risks to their health and safety from exposure to carcinogens or mutagens at the workplace. A consistent level of protection from the risks related to carcinogens and mutagens is provided for in that Directive by a framework of general principles to enable Member States to ensure the consistent application of the minimum requirements. Binding occupational exposure limit values established on the basis of available information, including scientific and technical data, economic feasibility, a thorough assessment of the socioeconomic impact and availability of exposure measurement protocols and techniques at the workplace, are important components of the general arrangements for the protection of workers established by that Directive. In that context, it is essential to take the precautionary principle into account where there are uncertainties. The minimum requirements provided for in that Directive aim to protect workers at Union level. More stringent binding occupational exposure limit values or other protective measures can be set by Member States.
- (2) Occupational exposure limit values are part of the risk-management measures under Directive 2004/37/EC. Compliance with those limit values is without prejudice to other employers' obligations pursuant to that Directive, in particular the reduction of use of carcinogens and mutagens at the workplace, prevention or reduction of workers' exposure to carcinogens and mutagens and measures which should be implemented to that effect. Those measures should include, in so far as it is technically possible, the replacement of the carcinogen or mutagen by a substance, mixture or process which is not dangerous or is less dangerous to workers' health, the use of a closed system or other measures aimed at the reduction of the level of workers' exposure to a level as low as possible, thereby fostering innovation.
- (3) For most carcinogens and mutagens, it is not scientifically possible to identify levels below which exposure would not lead to adverse effects. While setting the limit values at the workplace in relation to carcinogens or mutagens pursuant to this Directive does not eliminate risks to the health and safety of workers arising from exposure at work (residual risk), it nonetheless contributes to a significant reduction in risks arising from such exposure in the stepwise and goal-setting approach pursuant to Directive 2004/37/EC. For other carcinogens and mutagens, it is scientifically possible to identify levels below which exposure is not expected to lead to adverse effects.

⁽¹⁾ OJ C 288, 31.8.2017, p. 56.

⁽²⁾ Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 20 December 2018.

⁽³⁾ Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).

- (4) Maximum levels of the exposure of workers to some carcinogens or mutagens are established by limit values which, pursuant to Directive 2004/37/EC, must not be exceeded. Those limit values should be revised and limit values should be set for additional carcinogens and mutagens.
- (5) The limit values set in this Directive should be revised when necessary in light of available information, including scientific and technical data and evidence-based best practices, techniques and protocols for exposure level measurement at the workplace. That information should, if possible, include data on residual risks to the health of the workers and opinions of the Scientific Committee on Occupational Exposure Limits (SCOEL) and of the Advisory Committee on Safety and Health at Work (ACSH). Information related to residual risk, made publicly available at Union level is valuable for future work to limit risks from occupational exposure to carcinogens and mutagens, including for future revisions of the limit values set in this Directive.
- (6) No later than in the first quarter of 2019, the Commission, taking into account the latest developments in scientific knowledge, should assess the option of amending the scope of Directive 2004/37/EC to include reprotoxic substances. On that basis, the Commission should present a legislative proposal, if appropriate, after consulting management and labour.
- (7) For some non-threshold carcinogens it is not possible to derive a health-based exposure limit value, however it is possible to set a limit value for those carcinogens based on available information, including scientific and technical data.
- (8) In order to ensure the highest possible level of protection against some carcinogens and mutagens, it is necessary to consider other absorption pathways, including the possibility of uptake through the skin.
- (9) SCOEL assists the Commission, in particular in evaluating the latest available scientific data and in proposing occupational exposure limit values for the protection of workers from chemical risks, which are to be set at Union level pursuant to Council Directive 98/24/EC⁽⁴⁾ and Directive 2004/37/EC. The ACSH is a tripartite body that assists the Commission in the preparation, implementation and evaluation of activities in the field of occupational health and safety. In particular, the ACSH adopts tripartite opinions on initiatives to set occupational exposure limit values at Union level on the basis of the available information, including scientific and technical data as well as data on social aspects and on the economic feasibility of those initiatives. Other sources of scientific information, adequately robust and in the public domain were also considered, in particular the International Agency for Research on Cancer (IARC), the World Health Organisation and national agencies.
- (10) SCOEL's work and the transparency of that work is integral to a responsible policy process. If SCOEL's work is to be reorganised, dedicated resources should be guaranteed and specific expertise on epidemiology, toxicology, occupational medicine and occupational hygiene should not be lost.
- (11) Amendments to Annexes I and III to Directive 2004/37/EC provided for in this Directive are a further step in a longer term process to update Directive 2004/37/EC. As the next step in that process, the Commission has submitted a proposal for the establishment of limit values and skin notations with regard to five additional carcinogens. Moreover, the Commission stated in its Communication of 10 January 2017 entitled 'Safer and Healthier Work for All — Modernisation of the EU Occupational Safety and Health Legislation and Policy' that there should be further amendments to Directive 2004/37/EC. The Commission should, on an ongoing basis, continue its work on updates of Annexes I and III to Directive 2004/37/EC, in line with Article 16 thereof and established practice, and amend them when necessary in light of available information, including progressively acquired scientific and technical data such as residual risk data. That work should result, where appropriate, in proposals for future revisions of the limit values set out in Directive 2004/37/EC and in this Directive, as well as proposals for additional substances, mixtures and processes in Annex I and additional limit values in Annex III.
- (12) It is important to protect workers exposed to carcinogenic or mutagenic substances resulting from the preparation, administration or disposal of hazardous drugs, including cytostatic or cytotoxic drugs, and from work involving exposure to carcinogenic or mutagenic substances in cleaning, transport, laundry and waste disposal of hazardous drugs or materials contaminated by hazardous drugs, as well as in personal care for

⁽⁴⁾ Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

patients under treatment of hazardous drugs. As a first step, the Commission has issued guidance to reduce occupational health and safety risks in the healthcare sector, including on the risk related to the exposure to cytostatic or cytotoxic drugs, in a dedicated guide to prevention and good practice. This guidance is without prejudice to possible further legislative proposals or other initiatives.

- (13) In accordance with the recommendations of SCOEL and of the ACSH, where available, limit values for the inhalation route of exposure are established in relation to a reference period of eight hours time-weighted average (long-term exposure limit values) and, for certain carcinogens or mutagens to a shorter reference period, in general fifteen minutes time-weighted average (short-term exposure limit values), in order to limit, to the extent possible, the effects arising from short-term exposure. Skin notations are also set in accordance with the recommendations of SCOEL and of the ACSH. Additional sources of scientific information that are adequately robust and in the public domain should also be considered.
- (14) The principle of prevention at the workplace should also be promoted in relation to the effects of carcinogens and mutagens on future generations, such as the negative impacts on the reproductive capacity of both men and women, as well as on foetal development. To this end, Member States should share best practices in this field.
- (15) There is sufficient evidence of the carcinogenicity of mineral oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine. Those used mineral engine oils are process-generated and therefore they are not subject to classification in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽⁵⁾. SCOEL identified the possibility of significant uptake through the skin for those oils, concluded that occupational exposure occurs through the dermal route and strongly recommended the establishment of a skin notation. The ACSH agreed that used mineral engine oils should be added to the carcinogenic substances, mixtures and processes listed in Annex I to Directive 2004/37/EC and on the possibility of significant uptake through the skin. A range of best practices can be used to limit dermal exposure, including the use of personal protection equipment such as gloves, and the removal and cleaning of contaminated clothing. Full compliance with those practices, as well as with newly emerging best practices, could help reduce that exposure. It is therefore appropriate to include work involving exposure to mineral oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine in Annex I to Directive 2004/37/EC and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin.
- (16) There is sufficient evidence of the carcinogenicity of diesel engine exhaust emissions arising from the combustion of diesel fuel in compression ignition engines. Diesel engine exhaust emissions are process-generated and therefore not subject to classification in accordance with Regulation (EC) No 1272/2008. The ACSH agreed that traditional diesel engine exhaust emissions should be added to the carcinogenic substances, mixtures and processes listed in Annex I to Directive 2004/37/EC and has requested further investigations of the scientific and technical aspects of newer types of engines. Diesel engine exhaust has been classified by the IARC as carcinogenic to humans (IARC category 1) and the IARC has specified that while the amount of particulates and chemicals are reduced in the newer types of diesel engines, it is not yet clear how the quantitative and qualitative changes will translate into altered health effects. The IARC has also specified that it is common to use elemental carbon, which makes up a significant proportion of those emissions, as a marker of exposure. Given the above and the number of workers exposed, it is appropriate to include work involving exposure to diesel engine exhaust emissions in Annex I to Directive 2004/37/EC and to establish in Annex III thereto a limit value for diesel engine exhaust emissions calculated on elemental carbon. The entries in Annexes I and III to Directive 2004/37/EC should cover exhaust emissions from all types of diesel engines.
- (17) With regard to diesel engine exhaust emissions, a limit value of 0,05 mg/m³ measured as elemental carbon may, in some sectors, be difficult to achieve in the short term. Therefore, in addition to the transposition period, a two year transitional period should be introduced before the limit value should apply. However, for the sectors of underground mining and tunnel construction, a five year transitional period, in addition to the transposition period, should be introduced before the limit value should apply.
- (18) Certain polycyclic aromatic hydrocarbons (PAHs) mixtures, particularly those containing benzo[a]pyrene, meet the criteria for classification as carcinogenic (category 1A or 1B) in accordance with Regulation (EC) No 1272/2008 and therefore are carcinogens as defined in Directive 2004/37/EC. Exposure to such mixtures

⁽⁵⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

may occur during work involving burning processes, such as from combustion engine exhaust, and high temperature combustion processes, among others. SCOEL identified the possibility of significant uptake through the skin for those mixtures and the ACSH agreed on the importance of introducing an occupational exposure limit value for PAHs mixtures and has recommended carrying out work to evaluate the scientific aspects with a view to proposing an occupational exposure limit value in the future. It is therefore appropriate to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin. Further investigations should also be carried out to assess whether it is necessary to set a limit value for PAHs mixtures in order to better protect workers from those mixtures.

- (19) Trichloroethylene meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. SCOEL identified trichloroethylene as a genotoxic carcinogen. It is possible, on the basis of available information, including scientific and technical data, to set limit values for trichloroethylene in relation to a reference period of eight hours (long-term limit value) and to a shorter reference period of fifteen minutes time-weighted average (short-term exposure limit value). SCOEL identified for that carcinogen the possibility of significant uptake through the skin and the ACSH agreed on a practical limit value on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish long- and short-term exposure limit values for trichloroethylene and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin. In light of evolving scientific evidence and technical progress, the limit values for that substance should be kept under particularly close review.
- (20) 4,4'-Methylenedianiline (MDA) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. SCOEL concluded that it is not possible to derive a health-based exposure limit for that non-threshold carcinogen. On the basis of available information, including scientific and technical data, it is possible, however, to set a limit value for 4,4'-Methylenedianiline. SCOEL identified for that carcinogen the possibility of significant uptake through the skin and the ACSH agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish a limit value for 4,4'-Methylenedianiline and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin.
- (21) Epichlorohydrine (1-chloro-2,3-epoxypropane) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. SCOEL concluded that it is not possible to derive a health-based exposure limit value for that non-threshold carcinogen and has recommended avoiding occupational exposure. SCOEL identified for epichlorohydrine the possibility of significant uptake through the skin and the ACSH has agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish a limit value for epichlorohydrine and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin.
- (22) Ethylene dibromide (1,2-dibromoethane, EDB) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. SCOEL concluded that it is not possible to derive a health-based exposure limit value for that non-threshold carcinogen and has recommended avoiding occupational exposure. SCOEL identified for ethylene dibromide the possibility of significant uptake through the skin and the ACSH has agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish a limit value for ethylene dibromide and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin.
- (23) Ethylene dichloride (1,2-dichloroethane, EDC) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. SCOEL concluded that it is not possible to derive a health-based exposure limit value for that non-threshold carcinogen. On the basis of the available information, including scientific and technical data, it is possible, however, to set a limit value for ethylene dichloride. SCOEL identified for ethylene dichloride the possibility of significant uptake through the skin and the ACSH agreed on a practical limit value, on the basis of the available information, including scientific and technical data, while stressing the lack of robust and up-to-date scientific data, especially concerning the mode of action. It is therefore appropriate to establish a limit value for ethylene dichloride and to assign to it a skin notation in Annex III to Directive 2004/37/EC indicating the possibility of significant uptake through the skin.

- (24) The 'Agreement on Workers' Health Protection Through the Good Handling and Use of Crystalline Silica and Products Containing it', signed by the associations that form the European Network for Silica (NEPSI), and other social partners' agreements, which provide, in addition to regulatory measures, guidance and tools in order to support the effective implementation of the employers' obligations laid down in the Directive 2004/37/EC, are valuable instruments to complement regulatory measures. While respecting their autonomy, the Commission should encourage the social partners to conclude such agreements. However, compliance with such agreements should not give rise to a presumption of conformity with the employers' obligations laid down in Directive 2004/37/EC. A regularly updated list of such agreements should be published on the European Agency for Safety and Health at Work (EU-OSHA) website.
- (25) The Commission consulted the ACSH and carried out a two-stage consultation of the European social partners in accordance with Article 154 of the Treaty on the Functioning of the European Union.
- (26) This Directive respects the fundamental rights and observes the principles enshrined in the Charter of Fundamental Rights of the European Union, in particular in Article 31(1) thereof.
- (27) The limit values established in this Directive will be kept under review in light of the implementation of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁶⁾ and of the opinions of two committees of the European Chemicals Agency (ECHA) (the Committee for Risk Assessment (RAC) and the Committee for Socioeconomic Analysis (SEAC)), in particular to take account of the interaction between limit values established in Directive 2004/37/EC and dose-response relations, actual exposure information, and, where available, DNELs (Derived No Effect Levels) derived for hazardous chemicals in accordance with that Regulation in order to protect workers effectively.
- (28) Since the objectives of this Directive, which are to improve living and working conditions and to protect the health of workers from the specific risks arising from exposure to carcinogens and mutagens, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (29) Given that this Directive concerns the protection of the health and safety of workers at their workplace, it should be transposed within two years of the date of its entry into force.
- (30) Directive 2004/37/EC should therefore be amended accordingly.
- (31) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁽⁷⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2004/37/EC is amended as follows:

- (1) the following article is inserted:

'Article 13a

Social partners' agreements

Social Partners' agreements possibly concluded in the field of this Directive shall be listed on the website of the European Agency for Safety and Health at Work (EU-OSHA). That list shall be regularly updated.';

⁽⁶⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

⁽⁷⁾ OJ C 369, 17.12.2011, p. 14.

(2) in Annex I the following points are added:

- '7. Work involving dermal exposure to mineral oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine.
8. Work involving exposure to diesel engine exhaust emissions.;

(3) Annex III is replaced by the text set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than two years after the date of its entry into force. They shall immediately inform the Commission of the text of those measures. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Strasbourg, 16 January 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

LIMIT VALUES AND OTHER DIRECTLY RELATED PROVISIONS (ARTICLE 16)

A. LIMIT VALUES FOR OCCUPATIONAL EXPOSURE

Name of agent	EC No ⁽¹⁾	CAS No ⁽²⁾	Limit values						Notation	Transitional measures
			8 hours ⁽³⁾			Short-term ⁽⁴⁾				
			mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾	mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾		
Hardwood dusts	—	—	2 ⁽⁸⁾	—	—	—	—	—	—	Limit value 3 mg/m ³ until 17 January 2023
Chromium (VI) compounds which are carcinogens within the meaning of point (i) of Article 2(a) (as chromium)	—	—	0,005	—	—	—	—	—	—	Limit value 0,010 mg/m ³ until 17 January 2025 Limit value: 0,025 mg/m ³ for welding or plasma cutting processes or similar work processes that generate fume until 17 January 2025
Refractory ceramic fibres which are carcinogens within the meaning of point (i) of Article 2(a)	—	—	—	—	0,3	—	—	—	—	
Respirable crystalline silica dust	—	—	0,1 ⁽⁹⁾	—	—	—	—	—	—	
Benzene	200-753-7	71-43-2	3,25	1	—	—	—	—	skin ⁽¹⁰⁾	
Vinyl chloride monomer	200-831-0	75-01-4	2,6	1	—	—	—	—	—	
Ethylene oxide	200-849-9	75-21-8	1,8	1	—	—	—	—	skin ⁽¹⁰⁾	
1,2-Epoxypropane	200-879-2	75-56-9	2,4	1	—	—	—	—	—	
Trichloroethylene	201-167-4	79-01-6	54,7	10	—	164,1	30	—	skin ⁽¹⁰⁾	

Name of agent	EC No ⁽¹⁾	CAS No ⁽²⁾	Limit values						Notation	Transitional measures
			8 hours ⁽³⁾			Short-term ⁽⁴⁾				
			mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾	mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾		
Acrylamide	201-173-7	79-06-1	0,1	—	—	—	—	—	skin ⁽¹⁰⁾	
2-Nitropropane	201-209-1	79-46-9	18	5	—	—	—	—	—	
o-Toluidine	202-429-0	95-53-4	0,5	0,1	—	—	—	—	skin ⁽¹⁰⁾	
4,4'-Methylenedianiline	202-974-4	101-77-9	0,08	—	—	—	—	—	skin ⁽¹⁰⁾	
Epichlorohydrine	203-439-8	106-89-8	1,9	—	—	—	—	—	skin ⁽¹⁰⁾	
Ethylene dibromide	203-444-5	106-93-4	0,8	0,1	—	—	—	—	skin ⁽¹⁰⁾	
1,3-Butadiene	203-450-8	106-99-0	2,2	1	—	—	—	—	—	
Ethylene dichloride	203-458-1	107-06-2	8,2	2	—	—	—	—	skin ⁽¹⁰⁾	
Hydrazine	206-114-9	302-01-2	0,013	0,01	—	—	—	—	skin ⁽¹⁰⁾	
Bromoethylene	209-800-6	593-60-2	4,4	1	—	—	—	—	—	
Diesel engine exhaust emissions			0,05 (*)							The limit value shall apply from 21 February 2023. For underground mining and tunnel construction the limit value shall apply from 21 February 2026.
Polycyclic aromatic hydrocarbons mixtures, particularly those containing benzo[a]pyrene, which are carcinogens within the meaning of this Directive									skin ⁽¹⁰⁾	

Name of agent	EC No ⁽¹⁾	CAS No ⁽²⁾	Limit values						Notation	Transitional measures
			8 hours ⁽³⁾			Short-term ⁽⁴⁾				
			mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾	mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾		
Mineral oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine									skin ⁽¹⁰⁾	

⁽¹⁾ EC No, i.e. EINECS, ELINCS or NLP, is the official number of the substance within the European Union, as defined in Section 1.1.1.2 in Annex VI, Part 1, of Regulation (EC) No 1272/2008.

⁽²⁾ CAS No: Chemical Abstract Service Registry Number.

⁽³⁾ Measured or calculated in relation to a reference period of eight hours time-weighted average (TWA).

⁽⁴⁾ Short-term exposure limit (STEL). A limit value above which exposure should not occur and which is related to a 15-minute period unless otherwise specified.

⁽⁵⁾ mg/m³ = milligrams per cubic metre of air at 20 °C and 101,3 kPa (760 mm mercury pressure).

⁽⁶⁾ ppm = parts per million by volume in air (ml/m³).

⁽⁷⁾ f/ml = fibres per millilitre.

⁽⁸⁾ Inhalable fraction: if hardwood dusts are mixed with other wood dusts, the limit value shall apply to all wood dusts present in that mixture.

⁽⁹⁾ Respirable fraction.

⁽¹⁰⁾ Substantial contribution to the total body burden via dermal exposure possible.

(*) Measured as elemental carbon.

B. OTHER DIRECTLY RELATED PROVISIONS

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