



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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

REGULATION (EU) 2018/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**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 Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

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

Whereas:

- (1) The European Agency for Safety and Health at Work (EU-OSHA) was established by Council Regulation (EC) No 2062/94¹ 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 Since further amendments are to be made, that Regulation should be repealed and replaced in the interest of clarity.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.

¹ 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).

- (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.
- (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 2003¹, in order to ensure good coordination and synergies.

¹ 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).

- (16) The financial provisions and provisions for programming and reporting relating to EU-OSHA should be updated. Commission Delegated Regulation (EU) No 1271/2013¹ 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.
- (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.

¹ 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).

- (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 259/68¹.
- (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) 2015/443² and (EU, Euratom) 2015/444³.
- (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:

¹ OJ L 56, 4.3.1968, p. 1.

² Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

³ 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).

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;
- (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 Council¹.
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.

¹ 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).

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.

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 in 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), draw up a draft programming document containing a multiannual and an annual work programme in accordance with Article 32 of the 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 the 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 Regulation No 1¹ 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 Council² 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.

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

² 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).

4. The processing of personal data by EU-OSHA shall be subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council¹. 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.

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).

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 Council¹, EU-OSHA shall, by ... [six months after the date of entry into force of this Regulation], 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)² 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 EU-OSHA.

¹ 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).

² OJ L 136, 31.5.1999, p. 15.

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 2185/96¹.
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.

¹ 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
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 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 ... [5 years after the date of entry into force of this Regulation], 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.

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 ... [date of entry into force of this Regulation], 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 ...,

For the European Parliament
The President

For the Council
The President
