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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Foundation for the improvement of living and working conditions (Eurofound), and repealing Council Regulation (EEC) No 1365/75 - Outcome of the European Parliament's first reading (Strasbourg, 10 to 13 December 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Enrique CALVET CHAMBON (ALDE, ES), presented a compromise amendment (amendment number 61) to the proposal for a Regulation on behalf of the Committee on Employment and Social Affairs. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 11 December 2018, the plenary adopted the compromise amendment (amendment number 61) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

European Foundation for the improvement of living and working conditions (Eurofound) *I**

European Parliament legislative resolution of 11 December 2018 on the proposal for a regulation of the European Parliament and of the Council establishing the European Foundation for the improvement of living and working conditions (Eurofound), and repealing Council Regulation (EEC) No 1365/75 (COM(2016)0531 – C8-0342/2016 – 2016/0256(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0531),
 - having regard to Article 294(2) and point (a) of Article 153(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0342/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 30 March 2017³,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 9 November 2018 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Budgets (A8-0275/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ [OJ C 209](#), 30.6.2017, p. 49.

Position of the European Parliament adopted at first reading on 11 December 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council 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 Committee⁴,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁵,

⁴ OJ C 209, 30.6.2017, p. 49.

⁵ Position of the European Parliament of 11 December 2018.

Whereas:

- (1) The European Foundation for the improvement of living and working conditions (Eurofound) was established by Council Regulation (EEC) No 1365/75⁶ 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 ■ .

⁶ 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).

- (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.***
- (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 1271/2013⁷ 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.*

⁷ 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 259/68⁸.
- (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) 2015/443⁹ and (EU, Euratom) 2015/444¹⁰.
- (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:

⁸ OJ L 56, 4.3.1968, p. 1.

⁹ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

¹⁰ 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 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 socio-economic 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.*

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 Council¹¹.*
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***.

¹¹ 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 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.
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. 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), 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.

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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.*

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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;
- (q) 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 the **■** 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 Regulation No 1¹² shall apply to Eurofound.
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2. The translation services required for Eurofound's functioning shall be provided by the Translation Centre.

¹² Council Regulation No 1 determining the languages to be used by the European Economic Community (*OJ 17, 6.10.1958, p. 385*).

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 Council¹³ shall apply to documents held by Eurofound.
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 Council¹⁴***. 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.

¹³ 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).

¹⁴ ***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 Council¹⁵, Eurofound 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)¹⁶ 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.

¹⁵ ***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).***

¹⁶ ***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 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***¹⁷.
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.

¹⁷ ***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

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.

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 ... [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 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 ... [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

For the Council

The President

The President
