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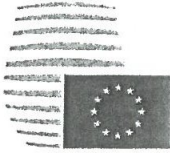
OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (First reading)
– Letter to the Chair of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE)

Following the Permanent Representatives Committee meeting of 30 June 2021 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE).



Council of the European Union
General Secretariat

SGS 21 / 003003

Mr Juan Fernando López Aguilar
Chairman, European Parliament Committee on LIBE
BRUSSELS

Brussels, 30 June 2021

Subject: *Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing regulation (EU) No 439/2010*

Dear Mr López Aguilar,

Following the informal meeting between the representatives of the three institutions, a draft overall compromise package was agreed today by the Permanent Representatives' Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex to this letter (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council I also wish to thank you for your close cooperation, which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,

Nuno BRITO
Chairman of the Permanent Representatives' Committee (Part 2)

Copy to: Ylva JOHANSSON, Commissioner
Elena YONCHEVA, EP Rapporteur

2016/0131 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(1) and (2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the Union's policy on asylum is to develop and establish a Common European Asylum System (CEAS), consistent with the values and humanitarian tradition of the Union and governed by the principle of solidarity and fair sharing of responsibility.
- (1a) A common policy on asylum, which is based on the full and inclusive application of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967 relating to the status of refugees (Geneva Convention), is a constituent part of the Union's objective of establishing progressively an area of freedom, security and justice open to third-country nationals or stateless persons who seek international protection in the Union.**

- (2) The CEAS is based on common minimum standards for procedures for international protection, recognition and protection offered at Union level, reception conditions and **establishes** a system for determining the Member State responsible for asylum seekers. Notwithstanding **the** progress **made** on the CEAS, there are still significant disparities between the Member States **as regards** the granting of international protection and the form that such international protection takes. Those disparities should be addressed by ensuring greater convergence in the assessment of applications for international protection **and by guaranteeing a [...] uniform level of application of Union law, based on high protection standards,** across the Union.
- (3) In its Communication “**Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe**” of 6 April 2016, the Commission set out **priority areas** for **structurally** improving the CEAS, namely [...] **the establishment of** a sustainable and fair system for determining the Member States responsible for asylum seekers, [...] **the reinforcement of** the Eurodac system, [...] **the achievement of** greater convergence in the asylum system and [...] **the prevention** of secondary movements, and **the development of** an enhanced mandate for the European Asylum Support Office (**EASO**). That Communication is in line with calls by the European Council on 18 February 2016 to make progress towards reforming the [...] **Union's** existing framework so as to ensure a humane, **fair** and efficient asylum policy. [...] **The Communication** also proposes a way forward in line with the holistic approach to migration set out by the European Parliament in its own initiative report “**The situation in the Mediterranean and the need for a holistic EU approach to migration**” of 12 April 2016.

- (4) [...] **EASO** was established by Regulation (EU) No 439/2010 of the European Parliament and of the Council¹ and it took up its responsibilities on 1 February 2011. [...] **EASO** [...] enhances practical cooperation among Member States on asylum-related matters and **assists** [...] Member States in implementing their obligations under the CEAS. [...] **EASO** also provides support to Member States whose asylum and reception systems are under particular pressure. However, its role and function need to be further strengthened so as to not only support Member States in their practical cooperation but to reinforce and [...] **contribute to ensuring the efficient functioning** of the asylum and reception systems of Member States.

¹ Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

- (5) Having regard to **the** structural weaknesses of the CEAS, **which were** brought to the fore by **the** large-scale and uncontrolled arrival of migrants and asylum seekers to the Union, and the need for an efficient, high and uniform level of the application of Union asylum law in Member States, it is necessary to improve the implementation and functioning of the CEAS by building on the work of [...] **EASO** and further developing it into a fully-fledged agency. The Agency should be a centre of expertise **on asylum**. **It** should facilitate and improve **the functioning of the CEAS by coordinating and** strengthening practical cooperation and information exchange **on asylum** among Member States [...], **by promoting Union and international law on asylum and** operational standards in order **to ensure** a high degree of uniformity **based on high protection standards** as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, **by enabling genuine and practical solidarity towards Member States, in order to assist the affected Member States in general and the applicants in particular, and in accordance with Article 80 TFEU, which stipulates that relevant Union acts shall contain appropriate measures to give effect to the principle of solidarity, as well as in order to apply in a sustainable way the Union rules for determining the Member State responsible for the examination of the application for international protection, [...] and in order to enable** convergence in the assessment of applications for international protection across the Union, **by monitoring the operational and technical application of [...] the CEAS, [...] by supporting Member States with resettlement and [...] the implementation of Regulation (EU) No 604/2013 and by providing operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.**

- (6) The tasks of the European Asylum Support Office should be expanded and **in order** to reflect those changes, it should be [...] **replaced and succeeded by** the European Union Agency for Asylum ('the Agency') [...], **with full continuity in all of its activities and procedures.** [...]
- (6a) **In order to guarantee that it is independent and that it can carry out its tasks properly, the Agency should be provided with sufficient financial and human resources, including sufficient own staff to form part of the asylum support teams and the teams of experts for the monitoring mechanism.**
- (7) The [...] Agency [...] should work in close cooperation with **the authorities of the Member States'** [...] **responsible for** asylum **and** immigration and other **relevant** services, drawing on the capacity and expertise of those services, and with the Commission. Member States should cooperate with the Agency to ensure that it is [...] **capable of fulfilling** its mandate. It is important, **for the purposes of this Regulation,** that the Agency and the Member States act in good faith and [...] exchange [...] information **in a timely and accurate manner.** Any provision of statistical data should respect the technical and methodological specifications **laid down in** Regulation (EC) No 862/2007 **of the European Parliament and of the Council.**²

² Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

- (8) The [...] Agency [...] should gather and analyse information on the situation of asylum in the Union and in third countries insofar as [...] **it may have an impact on the Union. That should enable the Agency to provide Member States with up-to-date information including on migratory and refugee flows, as well as to identify possible risks for Member States' asylum and reception systems. For this purpose, the Agency should work in close collaboration with the European Border and Coast Guard Agency.**
- (8-a) No personal data should be stored in databases or published on web portals created by the Agency concerning legal developments in the field of asylum including relevant case law, unless such data are publicly accessible.**
- (8a) The Agency should be able to deploy liaison officers to the Member States to foster cooperation and to act as an interface between the Agency and the national authorities responsible for asylum and immigration and other relevant services. Liaison officers should facilitate communication between the Member State concerned and the Agency and share relevant information from the Agency with the Member State concerned. They should support the collection of information and contribute to promoting the application and implementation of Union law on asylum, including with regard to the respect for fundamental rights. Liaison officers should regularly report on the situation of asylum in Member States to the Executive Director and those reports should be taken into account for the purposes of the monitoring mechanism. Where such reports raise concerns about one or more aspects relevant for the Member State concerned, the Executive Director should inform that Member State without delay.**
- (9) [...] The Agency should provide the necessary support to the Member States [...] **in carrying out [...] their tasks and obligations [...] under Regulation (EU) No 604/2013. [...]**

- (9a) **As regards resettlement, the Agency should be able to provide the necessary support to Member States at their request. To that end, the Agency should develop and offer expertise in resettlement in order to support [...] actions on resettlement taken by Member States [...].**
- (10) The [...] Agency [...] should assist Member States with **the** training of experts from all national administrations, courts and tribunals, and national [...] **authorities** responsible for asylum matters, including **through** the development of a [...] **European asylum** curriculum. **Member States should develop appropriate training on the basis of the European asylum curriculum with the aim of promoting best practices and common standards in the implementation of Union law. In this respect, Member States should include core parts of the European asylum curriculum into their training. Those core parts should cover issues related to the determination of whether applicants qualify for international protection, interview techniques and evidence assessment.** In addition, the Agency should **verify and, where necessary,** ensure that all experts participating in asylum support teams or forming part of the asylum [...] **reserve pool** receive [...] **the necessary** training before their participation in operational activities organised by the Agency.
- (11) The [...] Agency [...] should ensure a more structured, **up to date** and streamlined production of information on **relevant third countries** at [...] **Union level**[...]. It is necessary for the Agency to gather **relevant** information and draw up reports providing for country information. **For this purpose, the Agency should establish and manage** European networks on [...] **third-country** information so as to avoid duplication and create synergies with national reports. **The country information should refer, among others, to the political, religious and security situation in the country concerned, as well as violations of human rights including of torture and ill-treatment in the country concerned.**

- (11a) [...] In order to [...] foster convergence in the assessment of applications for international protection and the [...] type of protection granted, the Agency should together with Member States [...] develop a common analysis [...] and guidance notes on the situation in specific countries of origin. The common analysis should consist of an assessment of the situation in relevant countries of origin based on the country of origin information. The guidance notes should be based on an interpretation of that common analysis developed by the Agency and Member States. When developing the common analysis and guidance notes the Agency should take note of the most recent UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from specific countries of origin and it should be able to take into account other relevant sources. Without prejudice to Member States' competence for deciding on individual applications for international protection, Member States should take into account the relevant common analysis and guidance notes when assessing applications for international protection from applicants who originate from third countries for which a common analysis and guidance notes have been developed in accordance with this Regulation.**
- (12) [...] The Agency should assist the Commission and should be able to assist the Member States [...] by providing information and analysis on third countries regarding the safe country of origin and safe third country concepts ('safe country concepts'). [...] When providing such information and analysis the Agency should report to the European Parliament and the Council in accordance with this Regulation.**

- (13) **In order to ensure a high degree of uniformity based on high protection standards** as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, the Agency should organise and coordinate activities promoting **the correct and effective implementation of Union law on asylum through tools of a non-binding nature**. For that purpose, the Agency should develop operational standards and relevant indicators, [...] **as well as** guidelines on asylum-related matters. **The Agency** should enable **and promote** the exchange of best practices among Member States.
- (14) The [...] Agency [...], in close cooperation with the Commission and without prejudice to the Commission's responsibility as guardian of the Treaties, should monitor [...] **the operational and technical application** of the CEAS [...] **with the aim of preventing or identifying possible shortcomings in the asylum and reception systems of the Member States and of assessing their capacity and preparedness to manage situations of disproportionate pressure in order to enhance the efficiency of those systems**. [...] **That** monitoring mechanism [...] should be comprehensive, **it** should be based on information provided by **the Member State concerned, as well as the** information analysis on the situation of asylum developed by the Agency, on-site visits, **including short-notice visits, and** case sampling **and information provided by intergovernmental organisations or bodies, in particular UNHCR, and other relevant organisations on the basis of their expertise**. [...] **The Executive Director should provide for the possibility for the Member State concerned to comment on the draft findings [...] and subsequently on the draft recommendations. The draft recommendations should be prepared in consultation with the Commission. After taking into account the comments of the Member State concerned, the Executive Director should [...] submit to the Management Board the findings of the monitoring exercise and the draft recommendations [...], outlining the [...] measures to [...] be taken by the Member State concerned including with the assistance of the Agency, as necessary, to address [...] any shortcomings or issues of capacity and preparedness. The draft recommendations should specify [...] the time-limits within which those measures should be taken. The Management Board [...] should adopt the recommendations. It should be possible for the Member State concerned to request specific financial support from relevant Union financial instruments, and assistance from the Agency for the implementation of the recommendations.**

(14a) The monitoring exercise should take place in close collaboration with the Member State concerned, including as regards on-site visits and case sampling, where necessary. Case sampling should consist of a selection of positive and negative decisions relevant to the aspect of the CEAS that is being monitored, covering a particular period of time and it should be based on objective indications, such as recognition rates. Case sampling should be without prejudice to Member States' competence for deciding on individual applications for international protection and it should be carried out in full respect of the principle of confidentiality.

(14b) In order to focus the monitoring exercise on particular elements of the CEAS, the Agency should also have the possibility to conduct monitoring of thematic or specific aspects of the CEAS. Where the Agency initiates a monitoring exercise on thematic or specific aspects of the CEAS, it should ensure that all Member States are subject to this specific or thematic monitoring. However, in a year during which the operational and technical application of all aspects of the CEAS of a particular Member State is being monitored, that Member State should not be subject to a monitoring exercise on thematic or specific aspects of the CEAS so as to avoid duplication of the Agency's work.

(15) [...] **Where** the Member State concerned does not take the necessary measures to **implement** the recommendations **adopted by the Management Board within the set time limit and thereby does not address the identified** shortcomings in its asylum and reception systems [...] or any issues of capacity and preparedness which result in [...] **serious consequences for** the functioning of the CEAS, the Commission should, based on its own assessment [...], adopt recommendations addressed to that Member State [...] **identifying** the measures needed to remedy the [...] **situation, including, where necessary, specific measures to be taken by the Agency in support of the Member State concerned. It should be possible for the** Commission [...] to organise on-site visits to the Member State concerned **in order** to verify the implementation of the [...] **recommendations. In its assessment the Commission should consider the seriousness of the identified shortcomings in relation to their consequences for the functioning of the CEAS.**

Where, following the expiry of the time-limit set in the recommendations, the Member State **has** not complied with the recommendations, the Commission may [...] **make a proposal for a Council implementing act identifying measures to be taken by the Agency to support the Member State concerned and requiring the Member State to cooperate with the Agency in the implementation of those measures.**

(15b) **When setting up teams of experts for carrying out the monitoring exercise, the Agency should invite an observer from UNHCR. The absence of such an observer should not prevent the teams from performing their tasks.**

- (16) To facilitate and improve the proper functioning of the CEAS and to assist Member States in implementing their obligations within the framework of **the** CEAS, the Agency should provide Member States with operational and technical assistance, in particular where their asylum and reception systems are subject to disproportionate pressure. [...] **Such assistance should be provided based on an operational plan and** through the deployment of asylum support teams. **Those teams should** consist of experts from the Agency's own staff, experts from Member States, experts seconded by Member States to the Agency **or other experts not employed by the Agency with demonstrated relevant knowledge and experience in line with operational needs. The Agency should only make use of such other experts not employed by it where it cannot otherwise ensure the proper and timely exercise of its tasks due to the lack of available experts from Member States or the Agency's own staff.**
- (16-a) The **asylum support** teams should support Member States with operational and technical measures, including by providing expertise relating to **the** identification and registration of third-country nationals, interpreting services, information on countries of origin [...] **and on** the handling and management of asylum cases, as well as by assisting national authorities competent for the examination of applications for international protection [...] and by assisting with **the relocation or transfer of applicants for, or beneficiaries of, international protection.** [...] [...] Arrangements for asylum support teams should be governed by this Regulation in order to ensure their effective deployment.
- (16a) **Experts who participate in asylum support teams should complete the necessary training relevant to their duties and functions for their participation in operational activities. The Agency should, where necessary and in advance of or upon deployment, provide those experts with training which is specific to the operational and technical assistance that is being provided in the host Member State. For experts forming part of the asylum support teams to be involved in facilitating the examination of applications for international protection, they should demonstrate relevant experience of at least a year.**

- (16b) To ensure the availability of experts for the asylum support teams and to ensure that they can be immediately deployed as necessary, the asylum reserve pool should be established. That pool should constitute a reserve of experts from Member States amounting to a minimum of 500 persons.**
- (17) In cases where a Member State's asylum and reception systems are subject to disproportionate pressure [...], the Agency should, **upon the request of a Member State or on its own initiative with the agreement of the Member State concerned, be able to** assist that Member State [...] by means of a comprehensive set of measures, including the deployment of experts from the asylum [...] reserve pool. [...]
- (17a) The Agency should [...] be able to intervene, **on the basis of a Council implementing act**, in support of a Member State where [...] **its asylum and reception systems are rendered ineffective to the extent of having serious consequences for the functioning of the CEAS. Such an intervention may be justified where the asylum and reception systems of that Member State would be subject to disproportionate pressure that places heavy and urgent demands on those systems and the Member State concerned does not take sufficient action to address that pressure [...], including by not requesting operational and technical assistance or by not agreeing to an initiative of the Agency for such assistance, or the Member State concerned does not comply with the Commission's recommendations following a monitoring exercise. Such an intervention by the Agency should be without prejudice to any infringement procedure that may be initiated by the Commission.**

[...]

- (17b) **In order to address the situation where the asylum or reception systems of a Member State are rendered ineffective to the extent of having serious consequences for the functioning of the CEAS and are subject to disproportionate pressure that places exceptionally heavy and urgent demands on those systems and the Member States concerned does not take sufficient action to address that pressure, or the Member State concerned does not comply with the Commission's recommendations following a monitoring exercise, the Commission should propose to the Council a decision identifying the measures to be taken by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures. The implementing power to adopt such a decision should be conferred on the Council due to the potentially politically sensitive nature of the measures to be decided, and the possible impact which such measures might have on the tasks of the national authorities.**
- (18) To ensure that the asylum support teams [...], **including those** deployed from the asylum reserve pool, are able to perform their tasks effectively with the means necessary, the Agency [...] should **itself** be able to acquire or lease technical equipment. This should not, however, affect the obligation of **the host** Member States to supply the necessary facilities and equipment for the Agency to be able to provide the required operational and technical assistance. Any acquisition or leasing of equipment should be subject to a thorough needs and cost/benefit analysis by the Agency.

- (19) For Member States that are faced with specific and disproportionate pressure on their asylum and reception systems due, in particular, to their geographical or demographic situation, the [...] Agency [...] should support solidarity **measures** within the Union [...] and **perform its tasks and obligations with regard to the relocation or transfer of applicants or beneficiaries of international protection within the Union** [...], while ensuring that **advantage is not taken of** asylum and reception systems [...].
- (20) **Where a Member State faces specific and** disproportionate migratory **challenges** at particular areas [...] of the external borders, referred to as hotspot areas, **it should be able to request the Agency to provide operational and technical assistance and it should thus be able to** rely on increased operational and technical reinforcement by migration management support teams composed of teams of experts from Member States deployed through the Agency, the European [...] **Border and Coast Guard Agency** and Europol or other relevant Union **bodies, offices and** agencies, as well as experts from the staff of the Agency and the European [...] **Border and Coast Guard Agency with the aim of managing such challenges**. The Agency should **assist the Commission in the coordination among the different agencies on the ground**.
- (20a) **In hotspot areas, the Member States should operate cooperate with relevant Union agencies which should act within their respective mandates and powers, and under the coordination of the Commission. The Commission, in cooperation with the relevant Union agencies, should ensure that activities in hotspot areas comply with relevant Union law**.
- (21) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency should cooperate with Union bodies, [...] offices **and agencies**, in particular **the agencies in the field of Justice and Home Affairs** [...] in matters covered by this Regulation in the framework of working arrangements concluded in accordance with Union law and policy. Those working arrangements should receive the Commission's prior approval.

- (22) The [...] Agency [...] should cooperate with the European Migration Network, established by Council Decision 2008/381/EC³, to ensure synergies and avoid duplication of activities.
- (23) The [...] Agency [...] should cooperate with international organisations, in particular the United Nations High Commissioner for Refugees (UNHCR) in matters covered by this Regulation in the framework of working arrangements so as to benefit from their expertise and support. To that end, the roles of UNHCR and [...] other relevant international organisations should be fully recognised and those organisations should be involved in the work of the Agency. Those working arrangements should receive the Commission's prior approval.
- (24) The [...] Agency [...] should facilitate operational cooperation between Member States **and third countries in matters related to its activities and to the extent necessary for the fulfilment of its tasks. The Agency** should also cooperate with **the** authorities of third countries **in matters covered by this Regulation** in the framework of working arrangements which should receive the Commission's prior approval. The Agency should act in accordance with the Union's external relations policy, **should integrate its external activities in broader strategic cooperation with third countries, and the Agency should not**, under [...] **any** [...] circumstances, [...] formulate [...] independent external policy. In their cooperation with third countries, the Agency and the Member States should respect the fundamental rights set out in the Charter of Fundamental Rights of the European Union (**the Charter**) and should comply with norms and standards [...] **which form part of Union law, including** [...] where **the activities are carried out on** [...] the territory of those **third** countries.
- (24a) The Agency should be able to deploy experts from its own staff as liaison officers to relevant third countries to facilitate cooperation with third countries on matters related to asylum. Prior to the deployment of a liaison officer, the Agency should assess the human rights situation in the country concerned in order to ensure that that country complies with non-derogable human rights standards.**

³ Council Decision of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

- (25) The [...] Agency [...] should maintain a close dialogue with civil society with a view to exchanging information and pooling knowledge in the field of asylum. The Agency should set up a Consultative Forum which should constitute a mechanism for the exchange of information and the sharing of knowledge **on asylum**. The Consultative Forum should [...] **advise** the Executive Director and the Management Board in matters covered by this Regulation. **The composition and size of the Consultative Forum should be determined having due regard to the efficiency of its activities. Adequate human and financial resources should be allocated by the Agency to the Consultative Forum.**
- (26) This Regulation respects fundamental rights and observes the principles recognised, in particular, **by international and Union law**, including the Charter[...]. All activities of the [...] Agency [...] shall be carried out in full respect of those fundamental rights and principles, in particular the right to asylum, the protection from *refoulement*, the right to respect for private and family life, **including family reunification under Union law, the rights of the child**, the right to protection of personal data and the right to an effective remedy **and to a fair trial**. The rights of the child and the special needs of persons in a vulnerable situation [...] **should** always be taken into account. **The Agency should therefore carry out its tasks with respect for the best interests of the child, in compliance with the United Nations Convention on the Rights of the Child, taking due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity.**
- (26a) **Where the operational and technical assistance provided by the Agency concerns persons in a vulnerable situation, that assistance should be adapted to the situation of those persons in accordance with the requirements laid down by Union and national law on asylum.**
- (26b) **The Agency should establish and implement a fundamental rights strategy to monitor and ensure the protection of fundamental rights.**

(26c) An independent fundamental rights officer should be appointed to ensure that the Agency complies with fundamental rights in the course of its activities and to promote the respect for fundamental rights within the Agency in accordance with the Charter, including by making a proposal for the Agency's fundamental rights strategy and ensuring its implementation, as well as by handling complaints received by the Agency under the complaints mechanism. To that end, the Agency should provide the fundamental rights officer with adequate resources and staff corresponding to its mandate and size.

(26d) The Agency should establish a complaints mechanism in cooperation with the Fundamental Rights Officer. The aim of the complaints mechanism should be to safeguard the respect for fundamental rights in all the activities of the Agency. The complaints mechanism should be an administrative mechanism. The fundamental rights officer should be responsible for handling complaints received by the Agency in accordance with the right to good administration. The complaints mechanism should be effective, ensuring that complaints are properly followed up. The complaints mechanism should be without prejudice to access to administrative and judicial remedies and should not constitute a requirement for seeking such remedies. The complaints mechanism should not constitute a mechanism for challenging any decision of a national authority on individual applications for international protection. Criminal investigations should be conducted by the Member States, where necessary. In order to increase transparency and accountability, the Agency should report on the complaints mechanism in its annual report on the situation of asylum. The Agency's annual report should cover, in particular, the number of complaints it has received, the types of fundamental rights violations involved and where possible, the operations concerned as well as the follow-up measures taken by the Agency and Member States.

(27) The Commission and the Member States should be represented on the Management Board of the [...] Agency [...] in order to exercise a policy and political oversight over its workings. The Management Board **should give general orientation for the Agency's activities and should ensure that the Agency performs its tasks.** It should, where possible, consist of the operational heads of the Member States' asylum administrations or their representatives. **All parties represented in the Management Board should make efforts to limit turnover of their representatives, in order to ensure continuity of the board's work.** [...] **The Management Board** should be given the necessary powers, in particular to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision-making by the Agency, and appoint an Executive Director and Deputy Executive Director. The Agency should be governed and operated in line with the principles of the Common Approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European Commission.

(28) *deleted*

(29) The [...] Agency [...] should be independent as regards operational and technical matters and it should enjoy legal, administrative and financial autonomy. To that end, it is necessary and appropriate that the Agency [...] be a body of the Union having legal personality and exercising the implementing powers conferred upon it by this Regulation.

(29a) The Agency should report on its activities to the European Parliament and to the Council.

(30) In order to guarantee [...] **its** autonomy, the **Agency** should have its own budget, most of which comes essentially from a contribution from the Union. The financing of the Agency should be subject to an agreement by the budgetary authority as set out in point 31 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management.⁴ The Union budgetary procedure should be applicable to the Union's contribution and to any grant chargeable to the general budget of the [...] Union. The auditing of accounts should be undertaken by the Court of Auditors.

(30a) The consolidated annual activity report on the Agency's activities should set out the proportions of the expenditure for each of the Agency's main activities.

(31) Any financial resources made available by the Agency [...] **in** the form of grants, delegated agreements or [...] contracts in accordance with this Regulation should not result in double financing with other national, [...] **Union** or international sources.

(32) 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) should apply to the [...] Agency[...].

(33) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵ should apply without restriction to the [...] Agency[...], which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office.⁶

⁴ OJ C 373, 20.12.2013, p. 1.

⁵ 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).

⁶ OJ L 136, 31.5.1999, p. 15.

- (34) 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 documents⁷ should apply to the [...] Agency [...].
- (35) Any processing of personal data by the [...] Agency [...] within the framework of this Regulation should be conducted in accordance with Regulation (EU) [...] **2018/1725** of the European Parliament and of the Council⁸ and should respect the principles of necessity and proportionality. The Agency [...] **should be able to process personal data in order** to perform its tasks relating to the provision of operational and technical assistance to Member States, **to resettlement**, to [...] **the facilitation** of the exchange of information with Member States, the European [...] **Border and Coast Guard Agency**, Europol or Eurojust, to **analysing** information on the situation of asylum, and for administrative purposes. **Personal data of a sensitive nature, which are necessary for assessing whether a third-country national qualifies for international protection, should only be processed for the purposes of facilitating the examination of international protection or providing the necessary assistance in the procedure for international protection, [...] and for the purposes of resettlement[...]. Such processing should be limited to what is strictly necessary for the purposes of conducting a complete assessment of the applications for international protection in the interest of the applicant.** Any further processing of retained personal data for purposes other than those set out in this Regulation should be prohibited.
- (36) Regulation (EU) **2016/679** of the European Parliament and of the Council⁹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, **and repealing Directive 95/46/EC (General Data Protection Regulation)** applies to the processing of personal data by the Member States carried out in application of this Regulation unless such processing is carried out by the designated or verifying competent authorities of the Member States for the purposes of the prevention, investigation, detection or

⁷ 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).

⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁹ OJ L 119, 4.5.2016, p. 1.

prosecution of terrorist offences or of other serious criminal offences including the safeguarding against and the prevention of threats to public security.

- (37) Directive **(EU) 2016/680** of the European Parliament and of the Council¹⁰ applies to the processing of personal data by competent authorities of the Member States for the purposes of the prevention, investigation, detection or prosecution of terrorist offences or of other serious criminal offences pursuant to this Regulation.
- (38) The rules set out in Regulation **(EU) 2016/679** regarding the protection of the rights and freedoms of individuals, in particular their right to the protection of personal data which concerns them, with regard to the processing of personal data should be specified in respect of the responsibility for the processing of the data, of safeguarding the rights of data subjects and of the supervision of data protection, in particular as far as certain sectors are concerned.
- (39) The Agency should process personal data only for the purposes of performing its tasks of providing operational and technical assistance, when carrying out case sampling for the purposes of the monitoring exercise, [...] **potentially** handling applications for international protection [...], facilitating the exchange of information with Member States, the European [...] **Border and Coast Guard Agency**, Europol or Eurojust and in the framework of information obtained when performing its tasks in the migration management support teams at hotspots, for analysing information on the situation of asylum and for resettlement. Any processing of personal data should respect the principle of proportionality and be strictly limited to personal data necessary for those purposes.

¹⁰ OJ L 119, 4.5.2016, p. 89

- (40) Any personal data that the Agency processes, except those processed for administrative purposes, should be deleted after 30 days. A longer storage period is not necessary for the purposes for which the Agency processes personal data within the framework of this Regulation.
- (41) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 21 September 2016.¹¹
- (42) Since the objectives of this Regulation, namely the need to facilitate the implementation and improve the functioning of the CEAS, to strengthen practical cooperation and information exchange among Member States on asylum-related matters, to promote Union law **on asylum** and operational standards to ensure a high degree of uniformity as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, to monitor the operational and technical application of the [...] **CEAS** and to provide increased operational and technical [...] **assistance** to Member States for the management of the asylum and reception systems, in particular to Member States subject to disproportionate pressure on their asylum and reception systems, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

¹¹ OJ C [...]

- (43) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, [...] **Ireland is** not taking part in the adoption of this Regulation and **is** [...] not bound by it or subject to its application.
- (44) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (45) Taking into account the fact that Denmark has until now contributed to the practical cooperation between Member States within the area of asylum, the Agency should facilitate operational cooperation with Denmark. To that end, a Danish representative should be invited to participate in all the meetings of the Management Board, without the right to vote.
- (45a) To fulfil its purpose, the Agency should be open to participation by countries which have concluded agreements with the Union by virtue of which they have adopted and apply law of the Union in the field covered by this Regulation, in particular Iceland, Liechtenstein, Norway and Switzerland. Having regard to the fact that until now Iceland, Liechtenstein, Norway and Switzerland have participated in the activities of the Agency based on arrangements concluded by those countries with the Union on the modalities of their participation in the European Asylum Support Office, those countries should be able to continue participating in the Agency and contribute to the practical cooperation between Member States and the Agency according to the terms and conditions defined by those arrangements. To that end, Iceland, Liechtenstein, Norway and Switzerland should continue to participate as observers.**

- (46) The competence [...] of Member States' asylum authorities **to take a decision** on individual applications for international protection [...] **should remain unaffected**.
- (47) This Regulation aims to amend and expand the provisions of Regulation (EU) No 439/2010 of the European Parliament and of the Council. Since the amendments to be made are of a substantial nature, that act should, in the interests of clarity, be replaced [...] **in its entirety in relation to the Member States bound by this Regulation. The Agency, as established by this Regulation, should replace and assume the functions of EASO, as established by Regulation (EU) No 439/2010, which, as a consequence, should be repealed.** For the Member States bound by this Regulation [...] references to the repealed regulation should be construed as references to this Regulation.
- (48) **The provisions of this Regulation on the monitoring mechanism for the operational and technical application of the CEAS are linked, inter alia, with the system determining the Member State responsible established by Regulation (EU) No 604/2013. Since such system as established by that Regulation may change, it is deemed necessary to defer the application of those provisions to a later date, namely until [...] 31 December 2023. Moreover, the provisions on that mechanism which relate to the adoption of recommendations addressed to the Member State concerned, as well as the provisions of this Regulation on a situation of disproportionate pressure or ineffectiveness of the asylum and reception systems, are more directly linked to, and affected by, the responsibility aspects of the system established by Regulation (EU) No 604/2013. Since that Regulation may be replaced by a new legislative act currently under negotiation, and given the importance of the relevant aspects of such a new legislative act, those provisions should only be applied from the date of the replacement of that Regulation, unless such replacement occurs before [...] 31 December 2023, in which case those provisions should apply from [...] 31 December 2023.**

HAVE ADOPTED THIS REGULATION:

CHAPTER 1
THE EUROPEAN UNION AGENCY FOR ASYLUM

Article 1

Subject-matter and scope

-1. A European Union Agency for Asylum (the Agency) is hereby established. The Agency, as established by this Regulation, shall replace and succeed the European Asylum Support Office established by Regulation (EU) No 439/2010.

1. The European Union Agency for Asylum (the Agency) shall [...] **contribute to ensuring** the efficient and uniform application of Union law **on asylum** in Member States **in full respect of fundamental rights**. [...] **The Agency shall facilitate and support the activities of Member States** in the implementation [...] of the Common European Asylum System (CEAS), [...] **including by** enabling convergence in the assessment of applications for international protection across the Union **and by coordinating and strengthening practical cooperation and information exchange**.

The Agency shall improve the functioning of the CEAS, including through the monitoring mechanism and by providing operational and technical assistance to Member States, in particular where their asylum and reception systems are under disproportionate pressure.

2. The Agency shall be a centre of expertise by virtue of its independence, the scientific and technical quality of the assistance it provides and the information it **collects and** disseminates, the transparency of its operating procedures and methods, its diligence in performing the duties assigned to it, and the information technology support needed to fulfil its mandate.

3. [...]

Article 2

Tasks

1. **For the purposes of Article 1**, the Agency shall perform the following tasks:

(a) facilitate, coordinate and strengthen practical cooperation and information exchange among Member States on [...] **their asylum and reception systems**;

(b) gather and analyse information **of a qualitative and quantitative nature** on the situation of asylum and on the implementation of the CEAS;

(c) support Member States [...] **when carrying out their tasks and obligations in the framework of the CEAS**;

(d) assist Member States on training **and, where appropriate, provide training to Member States'** experts from all national administrations, courts and tribunals, and national services responsible for asylum matters, including **through the** development of a **European asylum** curriculum;

(e) draw up and regularly update reports and other [...] **products** providing for information on **the situation in relevant third countries, including** countries of origin, at the level of the Union;

(ee) set up and coordinate European networks on third country information;

(f) **organise activities and** coordinate efforts among Member States to [...] develop a common analysis [...] **and guidance notes on** the situation in [...] countries of origin;

[...] **(ff) provide information and analysis on third countries regarding the safe country concepts**;

(g) provide effective operational and technical assistance to Member States, in particular when they are subject to disproportionate pressure on their asylum and reception systems;

(h) provide adequate support to Member States in carrying out their tasks and obligations under Regulation (EU) No 604/2013;

(ha) assist with the relocation or transfer of applicants or beneficiaries of international protection within the Union;

(i) set up and deploy asylum support teams [...];

(ii) set up an asylum reserve pool;

(j) **acquire and** deploy the necessary technical equipment for the asylum support teams and deploy the experts from the asylum **reserve** pool;

(k) **develop** operational standards, indicators, guidelines and best practices in regard to the implementation of all instruments of Union law on asylum;

(ka) deploy liaison officers to Member States;

(l) monitor [...] **the operational and technical application** of the CEAS [...] **with a view to assisting Member States to enhance the efficiency of their** asylum and reception systems [...];

(m) support Member States in their cooperation with third countries in matters related to [...] **the external dimension of the CEAS, including through the deployment of liaison officers to third countries;**

(ma) assist Member States with their actions on resettlement.

[...]

2. The Agency [...] **shall** engage in communication activities on its own initiative in the fields within its mandate. **It shall provide the public with accurate and comprehensive information about its activities.** Communication activities shall not be detrimental to the tasks referred to in paragraph 1 [...]. **Communication activities shall be carried out without prejudice to Article 60** and [...] in accordance with the relevant communication and dissemination plans adopted by the Management Board.

Article 2a

National contact points for communication

Each Member State shall appoint at least one national contact point for communication with the Agency on matters relating to its tasks listed in Article 2.

CHAPTER 2

PRACTICAL COOPERATION AND INFORMATION ON ASYLUM

Article 3

Duty to cooperate in good faith and exchange information

1. The Agency and the Member States' [...] authorities **responsible for asylum and immigration** and other relevant services shall [...] cooperate in good faith [...].

1a. In order to perform the tasks and obligations conferred on them by this Regulation, in particular for the Agency to carry out its tasks referred to in Article 2 of this Regulation, the Agency and the Member States' authorities responsible for asylum and immigration and other relevant services shall exchange all necessary information in a timely and accurate manner.

2. The Agency shall work closely with the Member States' authorities **responsible for asylum and immigration and other relevant** services and [...] with the Commission. The Agency shall carry out its duties without prejudice to those assigned to other relevant bodies of the Union. **The Agency shall cooperate** with those bodies, **intergovernmental organisations, in particular** the United Nations High Commissioner for Refugees (UNHCR) **and other relevant organisations as provided for in this Regulation.**

3. The Agency shall organise, promote and coordinate activities enabling the exchange of information among Member States, including through the establishment of networks as appropriate [...].

3a. Where, after calling upon a Member State to provide the Agency with the information necessary for it to perform its tasks in accordance with this Regulation, the Executive Director establishes that the Member State concerned has systematically failed to do so, he or she shall report that fact to the Management Board and to the Commission.

Article 4

Information analysis on the situation of asylum

1. The Agency shall gather and analyse information on the situation of asylum in the Union and in third countries insofar as this may have an impact on the Union, including up-to-date information on root causes, migratory and refugee flows, **the presence of unaccompanied minors, the overall reception capacity and resettlement needs of third countries** as well as on [...] **possible** arrivals of large numbers of third-country nationals which may cause disproportionate pressure on **Member States'** asylum and reception systems, with a view to [...] **provide timely and reliable** information to the Member States and to identify possible risks to the Member States' asylum **and reception** systems.

For this purpose, the Agency shall work in close collaboration with the European [...] **Border and Coast Guard Agency**, and shall [...], **as appropriate, take into account** the risk analysis carried out by [...] **the European Border and Coast Guard Agency** so as to ensure the highest level of consistency and convergence in the information provided by both Agencies.

2. **In addition**, the Agency shall base its analysis on information provided, in particular, by Member States, relevant Union institutions and agencies, the European External Action Service as well as UNHCR, **particularly the UNHCR Global Resettlement Needs. The Agency may also take into account available information from relevant organisations on the basis of their expertise.**

3. The Agency shall ensure the rapid exchange of relevant information amongst Member States and with the Commission. It shall also submit, in a timely and accurate manner, the results of its analysis to the Management Board. **The Agency shall report on the information analysis to the European Parliament twice a year.**

Article 5

Information on the implementation of the CEAS

1. The Agency shall organise, coordinate and promote the exchange of information among Member States and between the Commission and the Member States concerning the implementation of all instruments of Union law on asylum.

2. The Agency shall **also** create [...] databases **and web portals** on [...] Union, national and international asylum instruments making use, in particular, of existing arrangements.

No personal data shall be stored in such databases **or web portals**, unless such data has been obtained by the Agency from documents that are publicly accessible.

3. [...] **The databases and web portals referred to in paragraph 2 shall have publicly accessible parts which shall contain** information on the following:

(a) [...] **statistics on applications for international protection and decisions taken by national** [...] authorities **responsible for asylum matters** [...];

(b) national law and legal developments in the field of asylum, including case law;

(c) relevant case law of the Court of Justice of the European Union and of the European Court of Human Rights.

[...]

Article 6

Liaison officers in Member States

- 1. The Executive Director shall appoint experts from the staff of the Agency to be deployed as liaison officers in Member States.**
- 2. The Executive Director shall, in consultation with the Member States concerned, make a proposal on the nature and terms of the deployment and the Member State or region to which a liaison officer may be deployed. The Executive Director may decide that a liaison officer covers up to four Member States which are geographically close to each other. The proposal from the Executive Director shall be subject to approval by the Management Board.**
 - 2a. The Executive Director shall notify the Member State concerned of the appointment of liaison officers and shall determine, together with the Member State concerned, the location of deployment.**
- 3. Liaison officers shall act on behalf of the Agency and shall foster cooperation and dialogue between the Agency and the Member States' authorities responsible for asylum and immigration and other relevant services. Liaison officers shall, in particular:**
 - (a) act as an interface between the Agency and Member States' authorities responsible for asylum and immigration and other relevant services;**

- (b) support the collection of information referred to in Article 4 and any other information required by the Agency;**
- (c) contribute to promoting the application of the Union law on asylum, including with regard to respect for fundamental rights;**
- (d) where requested, assist the Member States in preparing their contingency planning for measures to be taken to deal with possible disproportionate pressure on their asylum and reception systems;**
- (e) facilitate communication between Member States, between the Member State concerned and the Agency, share relevant information from the Agency with the Member State concerned, including information about ongoing assistance;**
- (f) report regularly to the Executive Director on the situation of asylum in the Member State concerned and its capacity to manage its asylum and reception systems effectively;**

Where the reports referred to in point (f) raise concerns about one or more aspects relevant for the Member State concerned, that Member State shall be informed without delay by the Executive Director. Those reports shall be taken into account for the purposes of the monitoring mechanism and shall be transmitted to the Member State concerned.

3a. For the purposes of paragraph 3, the liaison officer shall keep regular contacts with the Member States' asylum and immigration authorities and other relevant services, whilst informing a point of contact designated by the Member State concerned.

4. In carrying out their duties, the liaison officers shall take instructions only from the Agency.

Article 7

Training

1. The Agency shall establish, develop **and review** training for members of its own staff, members of [...] **relevant** national administrations, courts and tribunals, and national [...] **authorities** responsible for asylum **and reception** matters in the Member States.
2. The Agency shall develop such training in close cooperation with Member States and [...], **where appropriate, with the European Border and Coast Guard Agency, the European Union Agency for Fundamental Rights as well as relevant training entities, academic institutions, judicial associations, training networks or relevant organisations.**
3. The Agency shall [...] develop a European asylum curriculum taking into account the Union's existing cooperation in [...] **the field of asylum in order to promote best practices and high standards in the implementation of Union law on asylum.**

Member States shall develop the appropriate training for their staff pursuant to their obligations under Union law on asylum on the basis of the European asylum curriculum and shall include core parts of that curriculum into that training.

4. The training offered **by the Agency** shall be of high quality and shall identify key principles and best practices with a view to greater convergence of administrative methods, decisions and legal practices, in full respect of the independence of national courts and tribunals.

As part of the European asylum curriculum, the training offered by the Agency shall cover, in particular:

- (a) international and Union fundamental rights standards, and in particular the provisions of the Charter of Fundamental Rights of the European Union, as well as international and Union law on asylum, including specific legal and case law issues,

(aa) issues related to the determination of whether an applicant qualifies for international protection and the rights of beneficiaries of international protection;

(b) issues related to the [...] **processing** of applications for international protection [...];

(c) interview techniques;

(cc) evidence assessment;

(cb) relevant case law of national courts, the European Court of Justice, the European Court of Human Rights and other relevant developments in the field of asylum law;

(d) **fingerprint** data, including data **protection aspects, data** quality and security requirements;

(e) the use of expert medical and legal reports in [...] **the procedure for international protection;**

(f) issues relating to the production and use of information on **third** countries [...];

(g) reception conditions [...];

(gg) issues related to minors, in particular unaccompanied minors, as regards the best interests of the child assessment, specific procedural safeguards such as respect of the child's right to be heard and child protection aspects, age assessment techniques, and reception conditions for children and families;

(gh) issues related to applicants in need of special procedural guarantees or applicants with special reception needs or other persons in a vulnerable situation, with particular attention to victims of torture, victims of human trafficking and related gender-sensitive issues;

(h) issues related to interpretation and cultural mediation;

(i) issues related to resettlement;

[...] (k) issues related to the handling of relocation procedures; [...]

(l) resilience and stress-management skills notably for staff with managerial positions.

5. The Agency shall provide general, specific or thematic training **as well as *ad hoc* training activities**, including by using the ‘train-the-trainers’ methodology and e-learning.

6. The Agency shall take the necessary initiatives to **verify, and where necessary**, ensure that the experts, **including experts not employed by it**, who participate in the asylum support teams, have received the necessary training relevant to their duties and functions [...] **for** their participation in the operational activities organised by the Agency.

The Agency shall, **where necessary and in advance of or upon deployment, provide those experts with [...] training which is specific to the operational and technical assistance being provided in the host Member State.**

7. The Agency may organise training activities in cooperation with Member States or third countries on their territory.

CHAPTER 3
COUNTRY [...] INFORMATION AND GUIDANCE

Article 8

Information on **third** countries [...] at Union level

1. The Agency shall be a centre for gathering relevant, reliable, **objective**, accurate and up-to date information on **relevant third** countries [...] **in a transparent and impartial manner, making use of relevant information**, including child-specific **and gender-specific** information, **as well as** targeted information on persons belonging to vulnerable [...] **and minority groups**. It shall draw up and regularly update reports and other products providing for information on **relevant third** countries [...] at the level of the Union including on thematic issues specific to **relevant third** countries [...].

2. The Agency shall, in particular:

(a) make use of all relevant sources of information, including [...] information gathered from [...] international organisations, **in particular UNHCR and other relevant organisations, including members of the Consultative Forum**, Union institutions, agencies, bodies, offices [...] **and** the European External Action Service as well as through the networks referred to in Article 9 **and fact-finding missions**.

(b) manage and further develop a **web portal** for gathering **and sharing** information on **relevant third countries** [...] **which shall include a public section for general users and a restricted section for internal users who are employees of the Member States' asylum and immigration authorities or any other body mandated by a Member State to carry out research on country information;**

(c) develop a common format and a common methodology including terms of reference, in line with the requirements of Union law on asylum, for developing reports and other products with information on **relevant third countries** [...] at the level of the Union.

Article 9

European networks on **third country** [...] information

1. The Agency shall ensure the coordination of national initiatives producing [...] information **on third countries** by establishing and managing networks among Member States on **third country** [...] information. **Such networks may, where appropriate and on a case by case basis, involve external experts with relevant expertise from UNHCR or other relevant organisations.**

2. The purpose of the networks provided for in paragraph 1 shall be for Member States to, **in particular:**

(a) exchange and update national reports and other products **as well as other relevant information** on **third countries** [...] including **on** thematic issues [...];

(b) submit queries to the Agency **and assist in responding to queries** related to specific questions of fact that may arise from applications for international protection, without prejudice to **privacy, data protection and, as established in national law, confidentiality rules** [...];

(c) to contribute to the development and update of Union level products providing information on relevant third countries.

Article 10

Common analysis [...] **and guidance notes on countries of origin**

1. To foster convergence in applying the assessment criteria established in **Directive 2011/95/EU** [...], the Agency shall coordinate efforts among Member States to [...] develop a common analysis [...] on the situation in specific countries of origin **and guidance notes to assist Member States in the assessment of relevant applications for international protection.**

In the development of the common analysis and guidance notes, the Agency shall take note of the most recent UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from specific countries of origin.

2. The Executive Director shall, after consulting the Commission, [...] submit [...] **the guidance notes** to the Management Board for endorsement. [...] **The guidance notes shall be accompanied by the common analysis.**

2a. Member States shall [...] take into account [...] **the guidance notes and** common analysis [...] when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

3. The Agency shall ensure that the common analysis [...] **and guidance notes are** kept [...] under **regular** review and updated [...] **as necessary. Such a review and update shall be carried out in cases where there is a change in the situation in the country of origin or where there are objective indications that the common analysis and guidance notes are not being used.** Any such [...] **review or update** shall likewise require consultation of the Commission and endorsement by the Management Board.

4. Member States shall submit [...] to the Agency **any** relevant information [...] **indicating that a review or an update of the common analysis and guidance notes is necessary.**

Information and analysis on [...] safe countries of origin and safe third countries

- 1. The Agency may assist the Member States in applying the safe country concepts in accordance with Directive 2013/32/EU by providing information and analysis.**
- 2. The Agency shall assist the Commission in the context of its tasks regarding the safe country concepts in accordance with Directive 2013/32/EU by providing information and analysis.**
- 3. The information and analysis provided by the Agency under paragraphs 1 and 2 shall be compiled in accordance with the general principles provided for in Article 8.**
- 4. The European Parliament and the Council shall receive the information and analyses produced by the Agency under paragraphs 1 and 2 both on a regular basis and upon request.**

[...]

CHAPTER 4
OPERATIONAL STANDARDS AND GUIDELINES

Article 12

Operational standards, **indicators**, guidelines and best practices

1. The Agency shall organise and coordinate activities promoting a correct and effective implementation of Union law **on asylum**, including through the development of operational standards, indicators, guidelines or best practices on asylum-related matters, and the exchange of best practices in asylum-related matters among Member States.
2. The Agency shall, on its own initiative or at the request of **the Management Board or the Commission**, develop operational standards [...] **and relevant** indicators [...], guidelines and best practices related to the implementation of the instruments of Union law on asylum [...].
 - 2a. In the development of the operational standards, indicators, guidelines and best practices referred to in paragraph 2, the Agency shall consult the Commission, the Member States and, where appropriate, UNHCR. The Agency may also, based on relevant expertise, consult intergovernmental or other organisations as well as judicial associations and expert networks.**
 - 2b. The operational standards, indicators, guidelines and best practices referred to in paragraph 2 shall be adopted by the Management Board. After their adoption, the Agency shall communicate those operational standards, indicators, guidelines and best practices to the Member States and to the Commission.**
3. The Agency shall, at the request of Member States, assist them to apply the operational standards, **indicators**, guidelines and best practices to their asylum and reception systems by providing the necessary expertise or operational and technical assistance.
 - 3a. The Agency shall take into account the operational standards, indicators, guidelines and best practices when carrying out the monitoring.**

CHAPTER 5
MONITORING

Article 13

Monitoring mechanism for [...] the operational and technical application of the CEAS

1. The Agency, in close cooperation with the Commission, shall [...] **monitor the operational and technical application of the CEAS in order to prevent or identify possible shortcomings in the asylum and reception systems of Member States and to assess their capacity and preparedness to manage situations of disproportionate pressure so as to enhance the efficiency of those systems.**

2. **The Management Board shall, on a proposal of the Executive Director and in consultation with the Commission, establish a common methodology for the monitoring mechanism as set out in this Chapter. The common methodology shall include the objective criteria against which the monitoring shall be carried out, a description of the methods, processes and tools for the monitoring mechanism such as practical arrangements for on-site visits including short-notice visits, rules and principles for the establishment of the teams of experts.**

3. **The monitoring shall be carried out with respect to the operational and technical application of all aspects of the CEAS, in particular:**

(a) [...] **the system of determining the Member State responsible established by Regulation (EU) No 604/2013, procedures for international protection, the application of criteria for assessing the need for protection and the type of protection granted, including as regards the respect of fundamental rights, child protection safeguards and the specific needs of persons in a vulnerable situation;**

(b) **staff available and capacity in terms of translation and interpretation as well as the capacity to handle and manage asylum cases efficiently, including the handling of appeals, without prejudice to the judicial independence and with full respect to the organisation of the judiciary of each Member State;**

(c) **the reception conditions, capacity, infrastructure, equipment and, to the extent possible, financial resources.**

4. **The monitoring may be carried out, in particular, on the basis of the information provided by the Member State concerned, information analysis on the situation of asylum [...] referred to in Article 4 [...] and case sampling.**

The Agency may also take into account available information from relevant intergovernmental organisations or bodies, in particular UNHCR, and other relevant organisations on the basis of their expertise.

4a. On-site visits may also be used for the monitoring exercise. The short-notice visits referred to in paragraph 6 may only be used for the purposes of Article 14(2).

5. [...] Member States shall, at the request of the Agency, provide it with [...] information [...] **on the aspects referred to in paragraph 3.**

[...] Member States **shall, at the** request of the Agency, provide it with **information** on their contingency planning for measures to be taken to deal with [...] possible disproportionate pressure. **The Agency shall, with the agreement of the Member State concerned,** assist Member States to prepare and review their contingency planning [...].

6. The Member States shall [...] cooperate with the Agency [...], **including by facilitating** any on-site visit [...] **carried out** for the purposes of the monitoring exercise. **The Executive Director shall provide the Member States concerned with sufficient prior notice of any such visit. In the case of short-notice visits, the Executive Director shall provide the Member State concerned with a prior notice of 72 hours.**

Article 14

Procedure [...] and **follow-up**

1. The Management Board shall, **based on a proposal of the Executive Director and in** consultation with the Commission, [...] **adopt** the programme for monitoring **which shall cover** [...] **the operational and technical application of all aspects of the CEAS** in each Member State **and, in addition,** thematic or specific aspects [...] **of the CEAS with regard to** all Member States.

That programme for monitoring shall [...] indicate which Member States' asylum and reception systems shall be monitored in a particular year, ensuring that each Member State shall be monitored at least once in every five-year period.

2. **In addition**, the Agency [...] **shall** initiate a monitoring exercise [...] **either** on its own initiative, **in consultation with the Commission**, or at the request of the Commission [...], **where the information analysis raises serious concerns regarding the functioning of a Member State's asylum or reception systems.**

3. The Executive Director shall [...] **send the findings of the monitoring exercise** to the Member State concerned [...] **for comments, including indications of its needs as appropriate, with a time-limit of one month.**

3a. The Executive Director shall [...], **based on the findings referred to in paragraph 3 and** taking into account the comments of the Member State concerned [...], **and in consultation with the Commission, draw up draft recommendations. Those draft recommendations shall outline the measures to be taken by the Member State concerned, including with the assistance of the Agency as necessary, and a time-limit by when any necessary measures need to be taken by the Member State concerned to address the shortcomings or issues of capacity and preparedness identified in the monitoring exercise.** The Member State concerned shall be given [...] **one month** to comment on the draft recommendations. **In the cases referred to in Article 14(2), the Member State concerned shall provide its comments within 15 days.**

After [...] **taking into account** those comments, [...] **the Executive Director shall [...]** **submit the findings and draft recommendations to the Management Board which shall, by a decision of two-thirds of its members with a right to vote, adopt those recommendations. The Agency shall inform the Commission about the implementation of the recommendations. The Agency shall transmit the recommendations to the European Parliament.**

4. Where [...] a Member State [...] **does not implement the measures outlined in the recommendations of the Agency referred to in paragraph 3a within the set time-limit resulting in serious consequences** [...] for the functioning of the CEAS, the Commission shall, based on its own assessment [...], adopt recommendations addressed to that Member State [...] **identifying** the measures needed to remedy the [...] shortcomings, and where necessary, [...] **specific** measures to be taken by the Agency to support that Member State.

5. The Commission may, taking into account the seriousness of the shortcomings [...], organise on-site visits to the Member State concerned [...]. **The Commission shall provide the Member States concerned with sufficient prior notice of any such visit.**

6. The Member State concerned shall report to the Commission on the implementation of the recommendations referred to in paragraph [...] **4** within the time-limit set in those recommendations. If after that time-limit, the [...] **Member State has not** complied with those recommendations, [...] **the Commission** may [...] **make a proposal for a Council implementing act** [...] in accordance with Article 22(1).

7. The Commission shall inform the European Parliament and the Council of any follow up to monitoring that it carries out. It shall transmit the recommendations referred to in paragraph 4 to them, and shall inform them on a regular basis about the progress made by the Member State concerned in the implementation of these recommendations.

CHAPTER 6
OPERATIONAL AND TECHNICAL ASSISTANCE

Article 16

Operational and technical assistance by the Agency

1. The Agency shall provide operational and technical assistance to Member States in accordance with this Chapter:

(a) at the request of the Member State to the Agency with regard to the implementation of its obligations under the CEAS;

(b) at the request of the Member State to the Agency where its asylum or reception systems are subject to disproportionate pressure;

(c) at the request of the Member State facing disproportionate migratory challenges and requesting operational and technical reinforcement through the deployment of migration management support teams in accordance with Article 21;

(d) upon the initiative of the Agency where a Member State's asylum or reception systems are subject to disproportionate pressure, and with the agreement of the Member State concerned;

(e) where the Agency provides operational and technical assistance in accordance with Article 22.

2. The Agency shall organise and coordinate [...] the appropriate operational and technical assistance which may entail taking one or more of the following operational and technical measures in full respect for fundamental rights:

(a) assist Member States with the identification and registration of third-country nationals, as appropriate, in close cooperation with other Union Agencies;

(aa) **assist Member States with [...]receiving and registering[...] applications for international protection;**

(b) facilitate the examination of applications for international protection that are under examination by the competent national authorities **or provide them with the necessary assistance in the procedure for international protection;**

(d) facilitate [...] **joint** initiatives of [...] **Member States** in the processing of applications for international protection;

(e) assist with the provision of information on the international protection procedure;

(f) advise, [...] **assist or** coordinate the setting up or the provision of reception facilities by the Member States, in particular emergency accommodation, transport and medical assistance;

g) provide adequate support to Member States in carrying out their tasks and obligations under Regulation (EU) No 604/2013;

(ga) assist with the relocation or transfer of applicants or beneficiaries of international protection within the Union;

(h) provide interpretation services;

(i) assist Member States in ensuring that all the necessary child rights and child protection safeguards are in place, in particular as regards unaccompanied minors.

(ja) assist Member States in [...] identifying applicants in need of special procedural guarantees or applicants with special reception needs, or other persons in a vulnerable situation, including minors, as well as in referring those persons to the competent national authorities for appropriate assistance on the basis of national measures, and in ensuring that all the necessary safeguards for those applicants are in place;

(k) form part of the migration management support teams at hotspot areas referred to in Regulation 2019/1896¹² in close cooperation with other relevant Union Agencies;

(l) deploy asylum support teams;

(m) deploy technical equipment for the asylum support teams, as appropriate.

3. The Agency shall finance or co-finance the activities set out in paragraph 2 from its budget in accordance with the financial rules applicable to the Agency.

4. The Executive Director shall evaluate the result of the operational and technical measures and shall transmit detailed evaluation reports **in accordance with the reporting and evaluation scheme provided for in the operational plan** to the Management Board within 60 days from the end of **the provision of those measures, together with the observations of the Fundamental Rights Officer**. The Agency shall make a comprehensive comparative analysis of those results which shall be included in the annual activity report referred to in Article 65.

¹² OJ L 295, 14.11.2019, p.1.

Article 17

Procedure for providing operational and technical assistance

1. A request for assistance **by the Member State as referred to in Article 16(1)(a), (b) and (c) shall be addressed to the Executive Director and shall** describe the situation and the purpose of the request. **Such a request shall be accompanied by a detailed assessment of needs and, as appropriate, a description of the measures already taken at national level.**
2. **Where a Member State agrees to the assistance proposed on the initiative of the Agency as referred to in Article 16(1)(d), the Member State concerned shall submit to the Agency a detailed assessment of needs and, as appropriate, a description of the measures already taken at national level.**
3. The Executive Director shall evaluate, approve and coordinate requests for assistance, **including the deployment of asylum support teams.** The Executive Director shall immediately notify the Management Board of [...] requests **for assistance or the Agency's own initiative to provide assistance, and shall examine the detailed assessment of needs submitted by the Member State concerned.**
4. Each request **and initiative** for assistance shall be subject to a thorough and reliable assessment enabling the Agency to identify and propose [...] **one or more** measures as referred to in Article 16(2) that can meet the needs of the Member State concerned. If necessary, the Executive Director may send experts from the Agency to assess the situation of the Member State requiring assistance.
5. The Executive Director shall take a decision on [...] **the provision of operational and technical assistance including the** deployment of asylum support teams within three working days from the date of receipt of the request or **the agreement of the Member State to the Agency's own initiative or within five working days from that same date where experts are sent to the Member State concerned as referred to in paragraph 4.** The Executive Director shall at the same time notify the Member State concerned and the Management Board of the decision in writing stating the main reasons [...] **on which the decision is based.**

Article 18

Operational plan

1. The Executive Director [...] shall draw up an operational plan **in cooperation with the host Member State**. The Executive Director and the host Member State shall agree on an operational plan **within ten working days from the day on which the decision referred to in Article 17(5) is taken in the case referred to in Article 16(1)(a) or within five working days from the day on which such a decision is taken in the case referred to in Article 16(1)(b) or agreement provided in the case referred to in Article 16(1)(d)**. The participating Member States shall be **consulted, where necessary, on the operational plan through the national contact points referred to in Article 24**.

2. The operational plan shall **be binding on the Agency, the host and the participating Member States**. [...] It shall set out in detail the conditions for the [...] deployment of the asylum support teams [...] **within the framework** of the operational and technical assistance, **as well as organisational aspects**, including the following:

(a) a description of the situation, with the modus operandi and objectives of the deployment, including the operational objective;

(b) the foreseeable duration of the deployment;

(c) [...] location in the host Member State where the asylum support teams [...] shall be deployed;

- (d) logistical arrangements including information on working conditions [...] for the asylum support teams [...];
- (e) a detailed and clear description of the tasks and [...] **responsibilities of the asylum support teams, including with regard to the respect for fundamental rights;**
- (ee) [...] instructions for the asylum support teams [...], including **as regards** the national and European databases that they are authorised to consult and the equipment that they may use or carry in the host Member State;
- (f) the composition of the asylum support teams [...] **in terms of profiles and number of experts** [...];
- (g) the technical equipment [...], including specific provisions such as conditions of use, transport and other logistics and financial provisions;
- (h) capacity-building activities related to the operational and technical assistance being provided;**
- (i) regarding assistance with applications for international protection, including as regards the examination of such applications, **and without prejudice to the competence of Member States to decide on individual applications**, specific information on the tasks that the asylum support teams [...] may perform as well as [...] **a clear description of their responsibilities and of the applicable national, international and Union law, including the liability regime;**
- (j) a reporting and evaluation scheme containing benchmarks for the evaluation report, and final date of submission of the final evaluation report;

(k) **where appropriate**, modalities of cooperation with third countries, other Union agencies, bodies, offices or international organisations **within the respective mandates of those actors**;

(l) [...] **measures for referring** persons in need of international protection, victims of trafficking in human beings, minors and **any other** vulnerable persons [...] to the competent national authorities for appropriate assistance.

(k a) practical arrangements related to the complaints mechanism referred to in Article 48a.

2a. In Member States where UNHCR is operational and has the capacity to contribute to the request for operational and technical assistance, the Agency shall coordinate with UNHCR as regards the implementation of the operational plan, where appropriate, and upon agreement of the Member State concerned.

3. Having regard to point (ee) of paragraph 2, the host Member State shall authorise experts from the asylum support teams [...] to consult European databases and it may authorise them to consult its national databases in accordance with **relevant** Union and national law on access and consultation of those databases, and as necessary to achieve the objectives and perform the tasks outlined in the operational plan.

4. Any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State, **after consultation of the participating Member States, where necessary**. The Agency shall immediately send a copy of the amended or adapted operational plan to the **national contact points of participating Member States referred to in Article 24**.

5. The Executive Director shall, after informing the host Member State, suspend or terminate, in whole or in part, the deployment of the asylum support teams if the conditions to carry out the operational and technical measures are no longer fulfilled or if the operational plan is not respected by the host Member State or if, after consulting the Fundamental Rights Officer, he or she considers that there are breaches of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist.

Article 19

Composition of asylum support teams

1. **The Executive Director shall determine** the composition of each asylum support team [...]. The asylum support teams shall consist of experts from the Agency's own staff, experts from Member States, experts seconded by Member States to the Agency, **or other experts not employed by the Agency. For the purpose of composing the asylum support teams,** the Executive Director shall take into account the particular circumstances of the Member State **concerned** [...]. The asylum support team shall be constituted in accordance with the operational plan.

2. On a proposal by the Executive Director, the Management Board shall decide on the profiles and the overall number of experts to be made available for the asylum support teams. The same procedure shall apply to any subsequent changes in the profiles and the overall number of experts.

3. Member States shall contribute to the asylum support teams through **the nomination** of national experts [...] **who correspond to the required** profiles as decided upon by the Management Board in accordance with paragraph 1. The **number of experts to be made available by each Member State for the following year shall be defined** on the basis of annual bilateral negotiations and agreements between the Agency and the Member State concerned.

In accordance with those agreements, Member States shall make **their own experts or experts seconded to the Agency** available for deployment at the request of the Agency unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.

4. The Agency shall contribute to the asylum support teams with experts from its own staff [...], **including experts** employed [...] **and trained** for field work and interpreters **with at least basic training or proven experience who may be recruited in the host Member States, or with other experts not employed by the Agency with demonstrated relevant knowledge and experience in line with operational needs.**

5. As part of the asylum support teams, the Agency shall set up a list of interpreters. Member States shall assist the Agency in identifying interpreters for the list of interpreters, [...] **including individuals who do not form part of the national administration of Member States. Assistance with interpretation may be provided through the deployment of interpreters in the Member State concerned or, where appropriate,** via video-conferencing.

6. [...] An asylum reserve pool of a minimum of 500 persons shall be set up for the purposes of deploying asylum support teams in the cases referred to in Articles 16(1)(b) and (d) and Article 22. That pool [...] shall constitute a reserve of experts to be placed at the immediate disposal of the Agency. For that purpose, each Member State shall [...] make available to the Agency a number of experts [...] and shall be responsible for its contribution to the number of experts in accordance with the Annex I. The Management Board shall, on a proposal of the Executive Director, decide by a three-fourths majority of members with a right to vote on the profiles of experts [...] of the asylum [...] reserve pool. The same procedure shall apply to any subsequent changes in the profiles [...] of experts.

6a. The Executive Director may verify whether the experts made available by Member States in accordance with paragraph 6 correspond to the defined profiles. In advance of deployment, the Executive Director may request that a Member State remove an expert from the asylum reserve pool where the required profile is not met and replace him with an expert having one of the required profiles.

6b. Without prejudice to Article 22(5) and when faced with an exceptional situation substantially affecting the discharge of national tasks as evidenced by the information analysis referred to in Article 4, a Member State may request the Management Board in writing to be temporarily exempted from the obligation to contribute experts to the asylum reserve pool referred to in paragraph 6. Such a request shall provide comprehensive reasons and information on the situation in that Member State. The Management Board shall decide by a majority of three-fourths of members with the right to vote to temporarily exempt that Member State from part of its contribution fixed in the Annex I.

Article 20

Deployment of asylum support teams

1. The Agency shall deploy asylum support teams to Member States to provide operational and technical assistance [...] **as referred to in 16(1)**.
2. As soon as the operational plan is agreed, the Executive Director shall request the Member States to deploy the experts within no more than [...] **ten** working days. [...] That information shall be provided, in writing, to the national contact points **referred to in Article 24** and shall specify the scheduled date of deployment. A copy of the operational plan shall also be sent to [...] **those** national contact points.
4. **The Executive Director shall deploy asylum support teams from the asylum reserve pool in the cases referred to in Article 19(6). The deployment of experts from the asylum reserve pool shall take place** [...] within **seven** working days from [...] when the operational plan is agreed upon [...] **as referred to in Article 18(1) and Article 22(2)**.

5. Member States shall, **without undue delay**, make **the experts from the asylum reserve pool** available [...] **for deployment** as determined by the Executive Director. **The host Member State shall not deploy experts forming part of its fixed contribution to that pool. If there is a shortage of experts for deployment in the asylum reserve pool, the Management Board shall, on a proposal of the Executive Director, decide how that shortage is to be filled. The Executive Director shall also inform the European Parliament, the Council and the Commission.**

6. The duration of deployment shall be determined by the home Member State but it shall not be less than **45** days, unless the particular operational and technical assistance is required for a shorter duration.

7. **The Executive Director shall request that a Member State remove an expert from the asylum support teams in the case of misconduct or infringement of the applicable deployment rules. In such cases, the expert concerned shall not be considered for future deployments.**

8a. **The Agency shall inform the European Parliament by means of its annual report on the situation of asylum of the number of experts committed and deployed to the asylum support teams in accordance with this Article. That report shall list the Member States that have invoked the exceptional situation referred to in article 19(3) or 19(6b) in the previous year. It shall also include the reasons for invoking the exceptional situation and information provided by the Member State concerned.**

Article 21

Migration management support teams

1. Where a Member State requests operational and technical reinforcement by migration management support teams as referred to in Article [...] **40** of Regulation No 2019/1896 [...] **or where migration management support teams are deployed at hotspot areas based on Article 42 [...] of Regulation No 2019/1896, the Executive Director shall work closely with the European Border and Coast Guard Agency when, as provided for in Article 40(2) of Regulation 2019/1896, in coordination with other relevant Union agencies, he or she assesses a Member State's request for reinforcement and the assessment of its needs for the purpose of defining a comprehensive reinforcement package consisting of various activities coordinated by the relevant Union agencies to be agreed upon by the Member State concerned.**

1a. [...] **The Commission shall, in cooperation with the host Member State and the relevant Union agencies, establish the terms of cooperation at the hotspot area and be responsible for the coordination of the activities of the migration management support teams.**

2. The Executive Director shall [...] **in the cases referred to in paragraph 1 of this Article,** launch the procedure for deployment of asylum support teams as part of migration management support teams, **including experts from the asylum reserve pool as appropriate.** The operational and technical reinforcement provided by the asylum support teams in the framework of the migration management support teams may include:

(a) **assistance in** screening of third-country nationals, including their identification, registration, and where requested by **the host** Member State, their fingerprinting **and provision of information of the purpose of those procedures;**

(aa) [...] **the provision of initial information to third-country nationals who wish to make an application for international protection and their referral to the competent national authorities of the Member States;**

- (b) the provision of information [...] **to applicants on the procedure for international protection and with regard to reception conditions as appropriate**, relocation and [...] **the provision of necessary** assistance to applicants or potential applicants that could be subject to relocation;
- (c) the registration of applications for international protection and, where requested by **the host** Member State, the **facilitation of the** examination of such applications.

Article 22

Situation of disproportionate pressure or ineffectiveness of the asylum and reception systems

1. Where the asylum and reception systems of a Member State are rendered ineffective to the extent of having serious consequences for the functioning of the CEAS and:

- (a) **the asylum or reception systems of a Member State are subject to disproportionate pressure that places exceptionally heavy and urgent demands on those systems and the Member State concerned does not take sufficient action to address that pressure, including by not requesting the Agency for operational and technical assistance or not agreeing to an initiative of the Agency for such assistance**

or

- (b) **where the Member State concerned does not comply with the Commission Recommendation referred to in Article 14(4)**

the Council, on the basis of a proposal from the Commission, may adopt without delay a decision by means of an implementing act, identifying one or more of the measures set out in Article 16(2) to be taken by the Agency to support the Member State concerned and requiring the Member State to cooperate with the Agency in the implementation of those measures. The Council shall transmit that decision to the European Parliament.

2. [...] The Executive Director shall, within [...] **three** working days from the date of adoption of the [...] **Council decision**, determine [...] **the details of the practical implementation of the Council decision**. In parallel, the Executive Director [...] shall draw up the operational plan **and submit it to the Member State concerned. The Executive Director and the Member State concerned shall agree on the operational plan within three working days from the date of its submission.**

3. The Agency shall [...] deploy the necessary experts from the asylum [...] **reserve pool**, as well as experts from its own staff **in accordance with Article 20(4).** [...] **The Agency may deploy additional asylum support teams as necessary.**

4. The Member State concerned shall [...] **comply with the Council decision. For that purpose, it shall immediately cooperate with the Agency and take the necessary action to facilitate the implementation of that decision and the practical execution of the measures set out in that decision and in the operational plan, without prejudice to its competence for deciding on individual applications.**

5. **For the purposes of this Article,** the Member States shall make available the experts from the asylum [...] **reserve pool** as determined by the Executive Director **and may not invoke the situation referred to in Article 19(3) and Article 19(6a).** **The host Member State where experts from the asylum reserve pool are deployed shall not deploy experts forming part of its fixed contribution to that pool.**

Article 23

Technical equipment

1. Without prejudice to the obligation of host Member State to provide the necessary facilities and equipment for the Agency to be able to provide the required operational and technical assistance, the Agency may deploy its own equipment to **the host Member State including at its request**, to the extent that this may be needed by the asylum support teams [...] and insofar as this may complement equipment already made available by the host Member State or other Union agencies.

2. The Agency may acquire or lease technical equipment by decision of the Executive Director, in consultation with the Management Board. Any acquisition or leasing of equipment shall be preceded by a thorough needs and cost/benefit analysis. Any such expenditure shall be provided for in the Agency's budget as adopted by the Management Board and in accordance with the financial rules applicable to the Agency.

2a. The Agency shall be responsible for ensuring the security of its own equipment throughout the life cycle of the equipment.

Article 24

National contact point

Each Member State shall appoint a national contact point for communication with the Agency on all matters relating to the operational and technical assistance referred to in Articles 16 and 22.

Article 25

Coordinating officer of the Agency

1. The Agency shall ensure the operational implementation of all the organisational aspects, including the presence of staff members of the Agency, deployment of asylum support teams [...] throughout the provision of operational and technical assistance [...].
2. The Executive Director shall appoint one or more experts from the staff of the Agency to act or to be deployed as a coordinating officer for the purposes of paragraph 1. The Executive Director shall notify the host Member State of such designations.
3. The coordinating officer shall foster cooperation and coordination between the host Member State and the participating Member States. In particular, the coordinating officer shall:
 - (b) act as an interface between the Agency, the host Member State and experts of the asylum support teams [...], providing assistance, on behalf of the Agency, on all issues relating to their conditions of deployment;
 - (c) monitor the correct implementation of the operational plan;
 - (a) act on behalf of the Agency on all aspects of the deployment of the asylum support teams [...] and report to the Agency on all those aspects;
 - (d) report to the Executive Director where the operational plan is not adequately implemented.

4. The Executive Director may authorise the coordinating officer to assist in resolving any disputes concerning the implementation of the operational plan and the deployment of asylum support teams [...].

5. In discharging his or her duties, the coordinating officer shall **work in close cooperation with the competent national authorities and** shall take instructions only from the Executive Director.

Article 26

Civil liability

1. Where experts of an asylum support team [...] are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

2. Where such damage is caused by gross negligence or wilful misconduct, the host Member State may address the home Member State or the Agency to obtain **reimbursement of** any sums it has paid to the victims or persons entitled on their behalf from the home Member State or the Agency.

3. Without prejudice to the exercise of its rights vis-à-vis third parties, each Member State shall waive all its claims against the host Member State or any other Member State for any damage it has sustained, except in cases of gross negligence or wilful misconduct.

4. Any dispute between Member States or with the Agency relating to the application of paragraphs 2 and 3 of this Article which cannot be resolved by negotiations between them shall be submitted by them to the Court of Justice of the European Union in accordance with Article 273 of the Treaty.

5. Without prejudice to the exercise of its rights vis-à-vis third parties, the Agency shall meet costs relating to damage caused to the Agency's equipment during deployment, except in cases of gross negligence or wilful misconduct.

Article 27

Criminal liability

During the deployment of an asylum support team [...], **the deployed** experts shall be treated in the same way as officials of the host Member State with regard to any criminal offences that might be committed against them or by them.

Article 28

Costs

1. The Agency shall meet the costs incurred by [...] experts [...] **deployed** to asylum support teams [...], in particular:

(a) travel from the home Member State to the host Member State, from the host Member State to the home Member State **and within the host Member State for the purposes of deployment;**

(b) **costs related to** vaccinations;

(c) **costs related to** special insurance needs;

(d) **costs related to** health care;

(e) daily subsistence allowances, including accommodation;

(f) **costs related to** the Agency's technical equipment;

(g) experts' fees.

(f a) transportation costs including car rental and all related costs such as insurance, fuel and tolls;

(f b) telecommunication costs;

2. The Management Board shall establish detailed rules and update them as necessary as regards the payment of [...] **the costs incurred by experts in accordance with this Article.**

CHAPTER 7

INFORMATION EXCHANGE AND DATA PROTECTION

Article 29

Information exchange systems

1. The Agency shall [...] facilitate the exchange of information relevant to its tasks with the Commission and the Member States and, where appropriate, the relevant Union **bodies, offices and agencies.**

2. The Agency shall, in cooperation with the European agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No **2018/1726**,¹³ develop and operate an information system capable of exchanging classified information with [...] **the actors referred to in paragraph 1**, as well as personal data referred to in Articles 31 and 32 in accordance with Council Decision 2013/488¹⁴ and Commission Decision (EU, Euratom) 2015/444.¹⁵

Article 30

Data Protection

1. The Agency shall apply Regulation (EU) No **2018/1725** when processing personal data.
2. The Management Board shall establish measures for the application of Regulation (EU) No **2018/1725** by the Agency, including those concerning the appointment of a Data Protection Officer of the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.
3. Without prejudice to Articles 31 and 32, the Agency may process personal data for **the necessary administrative purposes related to personnel**.
4. The transfer of personal data processed by the Agency and the onward transfer by Member States to authorities of third countries or third parties, including international organisations, of personal data processed in the framework of this Regulation shall be prohibited.

¹³ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99–137).

¹⁴ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

¹⁵ Commission Decision 2015/444 (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).

[...]4a. By way of derogation from paragraph 4, the Agency may transfer, subject to the informed and freely given consent of the third-country national, the full name of the third-country national identified for the sole purpose of conducting a resettlement procedure, information on the course of the resettlement procedure and information on the outcome of the resettlement procedure to relevant international organisations to the extent necessary to meet that purpose. Such personal data shall not be further processed for any other purpose or transferred onwards. [...]

4b. When the processing of personal data is carried out by experts of the asylum support teams under the instructions of the host Member State and when providing operational and technical assistance to that Member State, Regulation (EU) 2016/679 shall apply.

Article 31

Purposes of processing personal data

1. The Agency may process personal data only **to the extent necessary and** for the following purposes:

(a) performing its tasks of providing operational and technical assistance in accordance with Articles 16(2) and 21(2) **and 21(3)**;

(b) when carrying out case sampling for the purposes of the monitoring ~~exercise~~ referred to in Article 13;

c) *deleted*.

(d) facilitating the exchange of information **with the competent authorities of the** Member States, the European [...] **Border and Coast Guard Agency**, Europol or Eurojust in accordance with Article 36 and in the framework of information obtained when performing the tasks listed in Article 21(2) **where it is necessary for the performance of their tasks in accordance with their respective mandates**;

(e) analysing information on the situation of asylum in accordance with Article 4.

[...] **(f) when assisting Member States with their actions on resettlement.** [...]

2. Any such processing of personal data shall respect the principle of proportionality and be strictly limited to personal data necessary for the purposes referred to in paragraph 1.

3. Member States or other Union **bodies, offices and** agencies providing personal data to the Agency shall only transfer data to the Agency for the purposes referred to in paragraph 1. Any further processing of retained personal data for purposes other than those referred to in paragraph 1 shall be prohibited.

4. Member States or other Union **bodies, offices and** agencies may indicate, at the moment of transferring personal data, any restriction on access or use, in general or specific terms, including as regards transfer, erasure or destruction. Where the need for such restriction becomes apparent after the transfer provision of information, they shall inform the Agency accordingly. The Agency shall comply with such restrictions.

Article 32

Processing of personal data [...] **for** providing operational and technical assistance [...] **and for resettlement**[...]

1. The [...] **processing** by the Agency of personal data collected by or transmitted to it by the Member States or by its own staff when providing operational and technical assistance to Member States [...] **and in case of resettlement**[...] shall be limited to the **full name, date and place of birth, place of residence or stay, gender, age, nationality, profession [...], education, family, date and place of arrival, fingerprints, facial image data of a third-country national and the status of a third-country national in relation to international protection.**

2. Personal data referred to in paragraph 1 may be processed by the Agency in the following cases:

(a) where necessary, **to assist Member States with the identification and registration of third-country nationals, as appropriate,** referred to in Article 16(2)(a) **and receiving and registering applicants for international protection referred to in Article 16(2)(aa);**

(b) where necessary to facilitate the examination of applications for international protection that are under examination by the competent national authorities **or to provide them with necessary assistance in the procedure for international protection** as referred to in Article 16(2)(b);

(c) *deleted*

(d) where necessary to provide adequate support to Member States in carrying out their tasks and obligations under Regulation (EU) No 604/2013;

(da) where necessary to assist with the relocation or transfer of applicants or beneficiaries of international protection within the Union;

(e) where transmission to the European [...] **Border and Coast Guard Agency**, Europol or Eurojust is necessary for the performance of their tasks in accordance with their respective mandates and in accordance with Article 30;

(f) where transmission to the Member States' authorities **responsible for asylum and immigration and other relevant** services is necessary for use in accordance with national legislation and national and Union data protection rules;

(g) where necessary for analysis of information on the situation of asylum as referred to in Article 4.

[...] **(h) where necessary to assist Member States with their actions on resettlement.** [...]

2a. When it is strictly necessary for the purposes referred to in points (b) [...] and (h) [...] of paragraph 2 the Agency may, in relation to a specific case, process personal data necessary for the assessment of whether a third-country national qualifies for international protection, data concerning health or specific vulnerabilities of a third-country national. Those data shall be made accessible only to staff who, in the specific case, needs knowledge of those data and who shall safeguard the confidentiality of that data. Such personal data shall not be further processed or transferred onwards.

3. The personal data shall be deleted as soon as they have been transmitted to the European [...] **Border and Coast Guard Agency**, Europol or Eurojust or to the competent authorities of Member States or used for information analysis on the situation of asylum. The storage period shall in any case not exceed 30 days after the date on which the Agency collects or receives those data. In the result of the information analysis on the situation of asylum, data shall [...] **be anonymised**.

[...]3-a. **Personal data obtained for the purpose referred to in Article 31(1)(f) shall be deleted as soon as they are no longer necessary for the purpose for which they have been obtained and in any event no later than 30 days from when the third-country national has been resettled.**

[...]

3a. Experts from the asylum support teams transmitting personal data pursuant to paragraph 1 shall provide the third-country national, at the time of the collection of his or her personal data, with the contact details of the relevant supervisory authority responsible for monitoring and enforcing compliance with Regulation (EU) 2016/679 in addition to the information referred to in Article 13 of that Regulation and without prejudice to other rights provided for in that Regulation.

Article 33

Cooperation with Denmark

The Agency shall facilitate operational cooperation with Denmark, including the exchange of information and best practices in matters covered by its activities.

Article 34

Cooperation with associate countries

1. The Agency shall be open to the participation of Iceland, Liechtenstein, Norway and Switzerland.
2. The nature, extent and manner in which those countries are to participate in the Agency's work shall [...] be defined by relevant working arrangements. Such arrangements shall include provisions relating to participation in initiatives undertaken by the Agency, financial contributions, participation in the meetings of the Management Board and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

Article 35

Cooperation with third countries

1. In matters related to its activities and, to the extent required for the fulfilment of its tasks, the Agency shall facilitate and encourage operational cooperation between Member States and third countries, within the framework of the Union's external relations policy, including with regard to the protection of fundamental rights, and in cooperation with the European External Action Service. The Agency and the Member States shall promote and comply with norms and standards [...] **which form part of** Union legislation, including when carrying out activities on the territory of those third countries.

2. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation with the support of and in coordination with Union delegations, in particular with a view to promoting Union standards on asylum and assisting third countries as regards expertise and capacity building for their own asylum and reception systems as well as implementing regional development and protection programmes and other actions. The Agency may carry out such cooperation within the framework of working arrangements concluded with those authorities in accordance with Union law and policy. [...] **The Management Board shall decide on the working arrangements [...] which shall be subject to prior approval of the Commission [...]. The Agency shall inform the European Parliament and the Council before a working arrangement is concluded.**

3. In the framework of cooperation with third countries, the Agency may support Member States in the implementation of resettlement schemes, upon the request of the Member State concerned.

4. The Agency shall, **where appropriate**, participate in the implementation of international agreements concluded by the Union with third countries, within the framework of the external relations policy of the Union, and regarding matters covered by this Regulation.

5. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the external relations policy of the Union. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation.

6[...]. The Agency shall inform the European Parliament of activities conducted pursuant to this Article through its annual report on the situation of asylum. That report shall also include an assessment of the cooperation with third countries.

[...]

Article 35a

Liaison officers in third countries

- 1. The Agency may deploy experts from its own staff as liaison officers, who should enjoy the highest possible protection when carrying out their duties in third countries. Liaison officers shall only be deployed to third countries in which migration and asylum management practices comply with non-derogable human rights standards.**
- 2. Within the framework of the external relations policy of the Union, priority for the deployment of liaison officers shall be given to those third countries which, on the basis of its information analysis, constitute a country of origin or transit regarding asylum-related migration. The deployment of liaison officers shall be approved by the Management Board.**
- 3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in full respect of fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to gathering information and contributing to the establishment of protection-sensitive migration management and, as appropriate, to facilitating access to legal pathways to the Union for persons in need of protection including through resettlement. The liaison officers shall coordinate closely with Union delegations as well as international organisations and bodies, in particular UNHCR, where appropriate.**
- 4. The decision to deploy liaison officers to third countries shall be subject to receiving the prior opinion of the Commission. The European Parliament shall be kept fully informed of those activities without delay.**

Article 36

Cooperation with Union agencies, bodies and offices

1. The Agency shall cooperate with agencies, bodies and offices of the Union having activities relating to its field of activity, in particular the agencies in the field of Justice and Home Affairs which are competent in matters covered by this Regulation.
2. Such cooperation shall take place within the framework of working arrangements concluded with those bodies, after having received the Commission's approval. The Agency shall inform the European Parliament and the Council of any such arrangements.
3. The cooperation shall create synergies among the relevant Union bodies and it shall prevent any duplication of effort in the work carried out by each one of them pursuant to their mandate.

Article 37

Cooperation with the UNHCR and other international organisations

The Agency shall cooperate with international organisations, in particular UNHCR, in areas governed by this Regulation, within the framework of working arrangements concluded with those bodies, in accordance with the Treaty and the provisions on the competence of those bodies. The Management Board shall decide on the working arrangements which shall be subject to prior approval of the Commission. **The Agency shall inform the European Parliament and the Council of any such arrangements.**

CHAPTER 9
ORGANISATION OF THE AGENCY

Article 38

Administrative and management structure

The Agency's administrative and management structure shall comprise:

- (a) a Management Board, which shall exercise the functions set out in Article 40;
 - (b) an Executive Director, who shall exercise the responsibilities set out in Article 46;
 - (c) a Deputy Executive Director, as established in Article 47.
- (ca) a Fundamental Rights Officer, as established in Article 47a;**
- (cb) a Consultative Forum, as established in Article 48.**

Article 39

Composition of the Management Board

1. The Management Board shall be composed of one representative from each Member State and two representatives of the Commission, which shall have the right to vote.
2. The Management Board shall include one representative of UNHCR, without the right to vote.
3. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his or her absence.

4. Members of the Management Board and their alternates shall be appointed in the light of their knowledge **and expertise** in the field of asylum, taking into account relevant managerial, administrative and budgetary skills. [...] All parties shall aim to achieve a balanced representation between men and women on the Management Board.

5. The term of office for members of the Management Board shall be four years. That term shall be extendable. On the expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are extended or until they are replaced.

Article 40

Functions of the Management Board

1. The Management Board shall give general orientation for the Agency's activities and shall ensure that the Agency performs its tasks. **It shall in particular:**

(b) adopt the annual budget of the Agency by a majority of two-thirds of members entitled to vote and exercise other functions in respect of the Agency's budget pursuant to Chapter 10;

(c) adopt a consolidated annual activity report on the Agency's activities and send it, by 1 July each year, to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

(d) adopt the financial rules applicable to the Agency in accordance with Article 53;

(e) take all decisions for the purpose of fulfilling the Agency's mandate as laid down in this Regulation;

(f) adopt an anti-fraud strategy, proportionate to the risk of fraud taking into account the costs and benefits of the measures to be implemented;

- (g) adopt rules for the prevention and management of conflicts of interest in respect of its members;
- (h) adopt and regularly update the communication and dissemination plans referred to in Article 2(3), based on an analysis of needs;
- (i) adopt its rules of procedure;
- (j) exercise, in accordance with paragraph 2, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment¹⁶ (appointing authority);
- (k) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- (l) appoint the Executive Director and Deputy Executive Director, exercise disciplinary authority over him or her and, where necessary, extend his or her term of office or remove him or her from office in accordance with Articles 45 and 47;
- (l a) appoint the Fundamental Rights Officer, subject to the Staff Regulations and the Conditions of Employment, from a selection of candidates proposed by the Executive Director;**
- (laa) appoint an accounting officer, subject to the Staff Regulations and the Conditions of Employment, who shall be totally independent in the performance of his or her duties;
- (m) adopt an annual report on the situation of asylum in the Union in accordance with Article 65. That report shall be presented to the European Parliament, the Council and the Commission **and shall be made public;**

¹⁶ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1)

- (n) take all decisions on the development of the information systems provided for in this Regulation, including the information portal referred to Article 8(2)(b);
- (o) adopt the detailed rules for applying Regulation (EC) No 1049/2001 in accordance with Article 58;
- (o a) establish measures for the application of Regulation (EU) 2018/1725 by the Agency, including those concerning the appointment of a Data Protection Officer of the Agency;**
- (p) adopt the Agency's staff policy in accordance with Article 55;
- (q) adopt [...] **each year the Agency's** programming document in accordance with Article 41;
- (r) take all decisions on the establishment of the Agency's internal structures and, where necessary, their modification;
- (s) ensure 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);
- (t) adopt the operational standards, indicators, guidelines and best practices developed by the Agency in accordance with Article 12(2);
- (u) endorse [...] **the guidance notes** concerning country of origin information and any review [...] **or the update of those guidance notes** in accordance with Article 10(2) and (3);
- (uu) adopt a decision establishing a common methodology for the monitoring mechanism referred to in Article 13(2);**
- (v) adopt the programme for monitoring [...] **the operational and technical application of the CEAS** in accordance with Article 14(1).

- (x) adopt the recommendations following a monitoring exercise in accordance with Article 14(3);
- (y) set up and decide on the profiles and overall numbers of experts to be made available for the asylum support teams **including for the asylum reserve pool** in accordance with Article [...] **19(2) and 19(6)**;
- (aa) adopt a strategy for relations with third countries or international organisations concerning matters for which the Agency is competent, as well as a working arrangement with the Commission for its implementation;
- (bb) authorise **and approve** the conclusion of working arrangements in accordance with Articles 35, **36 and 37**.

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 defining 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, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

3. The Management Board may establish a **small-sized** Executive Board [...] to assist it and the Executive Director with regard to the preparation of decisions, [...] **programmes** and activities to be adopted by the Management Board. When necessary, [...] the Executive Board may take certain provisional, **urgent** decisions on behalf of the Management Board, in particular on administrative management matters. **The Executive Board shall not take decisions that must be passed by either a majority of two-thirds or three-fourths of the Management Board. The Management Board may delegate certain clearly defined tasks to the Executive Board, in particular where this improves the efficiency of the Agency. It may not delegate to the Executive Board tasks related to the decisions that must be passed by either a majority of two-thirds or three-fourths of the Management Board. For the purposes of establishing the Executive Board, the Management Board shall establish its rules of procedure which shall in particular cover its composition and functions.**

Article 41

Multi-annual programming and annual work programmes

1. By 30 November each year, the Management Board shall adopt, **by a majority of two-thirds of members entitled to vote**, a programming document containing the multi-annual and annual programming, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and for the multi-annual programming, after consulting the European Parliament. The Management Board shall forward [...] **the draft programming document** to the European Parliament, the Council and the Commission.

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

A draft version of the programming document shall be sent to the European Parliament, the Council and the Commission no later than 31 January each year as well as any later updated version of that document.

2. The multi-annual programming shall set out the overall strategic programming in the medium and long-term including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff.

The multi-annual programming shall set the strategic areas of intervention and explain what needs to be done to achieve the objectives. It shall include the strategy for relations with third countries or international organisations referred to in Articles 35 and 37, respectively, and the actions linked to that strategy, as well as specification of associated resources.

The multi-annual programming shall be implemented by means of annual work programmes and it shall be updated annually. The multi-annual programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 66.

3. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each activity, in accordance with the principles of the activity-based budgeting and management. The annual work programme shall be consistent with the multi-annual programming referred to in paragraph 2. It shall clearly indicate the tasks that have been added, changed or deleted in comparison with the previous financial year.

4. The Management Board shall amend the adopted annual work programme when a new task is given to the Agency.

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

Article 42

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from its members with voting rights. The Chairperson and the Deputy Chairperson shall be elected by a majority of two-thirds of the members of the Management Board with voting rights.

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

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

Article 43

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 representative of UNHCR shall not take part in the meeting when the Management Board performs the functions laid down in points (f), (g), (j), (k), (l), (o), (p), (q), (r) and (s) of Article 40(1) and in Article 40(2), and when the Management Board decides to make financial resources available for financing UNHCR activities enabling the Agency to benefit from its expertise as provided for in Article 49.

4. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of one-third of its members.
5. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer.
6. Denmark shall be invited to attend the meetings of the Management Board.
7. The members and the alternates of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted at the meetings by advisers or experts.
8. The Agency shall provide the secretariat for the Management Board.

Article 44

Voting rules of the Management Board

1. Unless otherwise provided, the Management Board shall take its decisions by **an absolute** majority of its members with voting rights.
 2. Each member with voting rights 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 not take part in the voting.
- 4a. Member States that do not fully participate in the acquis of the Union in the field of asylum shall not vote where the Management Board is called on to adopt operational standards, indicators, guidelines or best practices which relate exclusively to an asylum instrument of the Union by which they are not bound.**

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.

Article 45

Executive Director

1. The Executive Director shall be a member of staff and shall be recruited as a temporary agent of the Agency in accordance with Article 2(a) of the Conditions of Employment of Other Servants.

2. The Commission shall propose at least three candidates for the post of executive director based on a list following publication of the post in the *Official Journal of the European Union* and, as appropriate, other press or internet sites.

2a. The Executive Director shall be appointed by the Management Board on the ground of merit and documented high-level administrative and management skills as well as senior professional experience in the field of migration and asylum. Before appointment the candidates proposed by the Commission shall be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.

Following such a statement, the European Parliament shall adopt an opinion setting out its views and may indicate a preferred candidate.

The Management Board shall appoint the executive director taking these views into account. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

If the Management Board takes a decision to appoint a candidate other than the candidate whom the European Parliament indicated as its preferred candidate, the Management Board shall inform the European Parliament and the Council in writing of the manner in which the opinion of the European Parliament was taken into account.

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

4. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

5. The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 4, may extend the term of office of the Executive Director once for no more than five years.

6. The Management Board shall inform the European Parliament if it intends to extend the Executive Director's term of office. Within one month before any such extension, the Executive Director may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members.

7. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

8. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.

9. The Management Board shall take decisions on appointment, extension of the term of office or removal from office of the Executive Director by a two-thirds majority of its members with the right to vote.

Article 46

Responsibilities of the Executive Director

1. The Executive Director shall manage the Agency. The Executive Director shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission and the Management Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government, institution, person or any other body.
3. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
4. The Executive Director shall be the legal representative of the Agency.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation. In particular, the Executive Director shall be responsible for:
 - (a) the day-to-day administration of the Agency;
 - (b) implementing decisions adopted by the Management Board;
 - (c) preparing the programming document and submitting it to the Management Board after consulting the Commission;
 - (d) implementing the programming document and reporting to the Management Board on its implementation;
 - (e) preparing the consolidated annual report on the Agency's activities and presenting it to the Management Board for adoption;

- (f) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-fraud Office (OLAF) and reporting on progress twice a year to the Commission and regularly to the Management Board and to the Executive Board;
- (g) without prejudicing the investigative competence of OLAF, 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;
- (h) preparing an anti-fraud strategy for the Agency and presenting it to the Management Board for approval;
- (i) preparing the draft financial rules applicable to the Agency;
- (j) preparing the Agency's draft statement of estimates of revenue and expenditure and implementing its budget;
- (k) exercising the powers laid down in Article 55 in respect of the Agency's staff;
- (l) taking all decisions on the management of the information systems provided for in this Regulation, including the information portal referred to in Article 8(2)(b);
- (m) taking all decisions on the management of the Agency's internal structures;
- (ma) drafting reports on the situation in third countries as referred to in Article 8;**
- (n) submitting the common analysis and guidance notes to the Management Board in accordance with Article 10(2);
- (na) setting up teams of experts for the purpose of Articles 13 and 14 which shall be composed of experts from the Agency's own staff, the Commission and, where necessary, the Member States and, as an observer, UNHCR;**

(nb) initiating a monitoring exercise either on its own initiative, in consultation with the Commission, or at the request of the Commission in accordance with Article 14(2);

(o) submitting the findings and draft recommendations in the context of the monitoring exercise to the Member State concerned and subsequently to the Management Board in accordance with Article 14(3) [...];

(oa) reporting to the Management Board and to the Commission in accordance with Article 3(3a);

(p) evaluating, approving and coordinating requests for operational and technical assistance in accordance with Article 16(2) and Article 20;

(q) ensuring the implementation of the operational plan referred to in Article 19;

(r) ensuring coordination of the Agency's activities in the migration management support teams with the Commission and other relevant Union agencies in accordance with Article 21(1);

(s) ensuring implementation of the Council decision referred to in Article 22(1);

(t) deciding, in consultation with the Management Board, on the acquisition or lease of technical equipment in accordance with Article 23(2);

(t a) proposing a selection of candidates for appointment as the Fundamental Rights Officer in accordance with Article 47a.

(u) appointing a coordinating officer of the Agency in accordance with Article 25(1).

Article 47

Deputy Executive Director

1. A Deputy Executive Director shall assist the Executive Director **in the management of the Agency and in the performance of his or her tasks as referred to in Article 46(5). If the Executive Director is absent or indisposed, the Deputy Executive Director shall take his or her place.**
2. The Deputy Executive Director shall be appointed by the Management Board on a proposal of the Executive Director. **The Deputy Executive Director shall be appointed on the grounds of merit and appropriate administrative and management skills, including relevant professional experience in the field of asylum. The Executive Director shall propose at least three candidates for the post of the Deputy Executive Director. The Management Board shall have the power to extend the term of office or to remove the Deputy Executive Director from office acting on the proposal from the Executive Director.** The provisions of Article 45 (1), (4), (7) and (9) shall apply to the Deputy Executive Director.

Article 47a

Fundamental Rights Officer

1. A Fundamental Rights Officer shall be appointed by the Management Board from a selection of candidates proposed by the Executive Director. **The Fundamental Rights Officer shall have the necessary qualifications and experience in the field of fundamental rights and asylum.**
2. **The Fundamental Rights Officer shall be independent in the performance of his or her duties and shall report directly to the Management Board [...].**

3. The Fundamental Rights Officer shall be responsible for ensuring the Agency’s compliance with fundamental rights in the course of its activities and promoting the respect of fundamental rights by the Agency. The Fundamental Rights Officer shall also be responsible for implementing the complaints mechanism.

4. The Fundamental Rights Officer shall cooperate with the Consultative Forum.

5. The Fundamental Rights Officer shall be consulted on, inter alia, the operational plans, the evaluation of the Agency’s operational and technical assistance, the code of conduct [...] and the European asylum curriculum. The Fundamental Rights Officer shall have access to all information concerning respect for fundamental rights in relation to all the activities of the Agency, including by organising visits where the Agency is carrying out operational activities, and with the consent of the Member State concerned [...].

Article 48

Consultative Forum

1. The Agency shall maintain a close dialogue with relevant civil society organisations and relevant competent bodies operating in the field of asylum policy at local, regional, national, Union or international level. For that purpose, the Agency shall set up a Consultative Forum.

2. The Consultative Forum shall constitute a mechanism for the exchange of information and sharing of knowledge. It shall ensure a close dialogue between the Agency and relevant organisations or bodies as referred to in paragraph 1 [...].

3. The Agency shall invite the European Union Agency for Fundamental Rights, the European **Border and Coast Guard** Agency [...], UNHCR and other relevant organisations or bodies as referred to in paragraph 1.

On a proposal by the Executive Director, the Management Board shall decide on the composition of the Consultative Forum, including thematic or geographic-focused consultation groups, and the modalities of transmission of information to the Consultative Forum. **The Consultative Forum shall, after consulting the Management Board and the Executive Director, define its working methods including thematic or geographic-focused working groups as deemed necessary and useful.**

4. The Consultative Forum shall **advise** the Executive Director and the Management Board in matters related to asylum, in accordance with specific needs in areas identified as a priority for the Agency's work.

5. The Consultative Forum shall, in particular:

(a) make suggestions to the Management Board on the annual and multi-annual programming referred to in Article 41;

(b) provide feedback to the Management Board and suggest measures as follow-up to the annual report on the situation of asylum in the Union; and

(c) communicate to the Executive Director and the Management Board conclusions and recommendations of conferences, seminars and meetings, as well as on findings from studies or field work carried out by any of the member organisations or bodies of the Consultative Forum which is relevant to the work of the Agency.

(5a) The Consultative Forum shall be consulted on the establishment and implementation of the Fundamental Rights Strategy, the code of conduct, the complaints mechanism and the European asylum curriculum.

6. The Consultative Forum shall meet in full session at least once a year and shall organise meetings for the thematic or geographic-focused consultation groups as necessary.

Article 48a
Complaints mechanism

- 1. The Agency shall [...] take the necessary measures to set up a complaints mechanism in accordance with this Article to ensure the respect for fundamental rights in all the activities of the Agency.**
- 2. Any person who is directly affected by the actions of experts in the asylum support teams, and who considers that his or her fundamental rights have been breached due to those actions, or any party representing such a person, may submit a complaint in writing to the Agency.**
- 3. Only substantiated complaints involving concrete fundamental rights violations shall be admissible. Complaints which challenge any decision of national authorities on an individual application for international protection shall be inadmissible. Complaints which are anonymous, abusive, malicious, frivolous, vexatious, hypothetical or inaccurate shall also be inadmissible.**
- 4. The Fundamental Rights Officer shall be responsible for handling complaints received by the Agency in accordance with the right to good administration. For this purpose, the Fundamental Rights Officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning experts of the asylum support teams to the home Member State, inform the relevant authority or body competent for fundamental rights in a Member State, and register and ensure the follow-up by the Agency or that Member State.**

5. In accordance with the right to good administration, where a complaint is admissible, the complainant shall be informed that a complaint has been registered, that an assessment has been initiated and that a response may be expected as soon as it becomes available. Where a complaint is forwarded to a national authority or body, the complainant shall be provided with the contact details of that authority or body. Where a complaint is inadmissible, the complainant shall be informed of the reasons for the inadmissibility and, where possible, provided with further options for addressing his or her concerns. Any decision shall be in written form and reasoned.

6. In the case of a registered complaint concerning a staff member of the Agency, the Executive Director shall ensure appropriate follow-up, in consultation with the Fundamental Rights Officer, including disciplinary measures as necessary. The Executive Director shall report back within a determined timeframe to the Fundamental Rights Officer as to the findings and follow-up made by the Agency in response to a complaint, including disciplinary measures as necessary.

6a. Where a complaint is related to data protection issues, the Executive Director shall involve the Data Protection Officer of the Agency. The Fundamental Rights Officer and the Data Protection Officer shall establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation as regards complaints received.

7. In the case of a complaint concerning an expert of a Member State, including seconded national experts, the home Member State shall ensure appropriate follow-up, including disciplinary measures as necessary or other measures in accordance with national law. The relevant Member State shall report back to the Fundamental Rights Officer as to the findings and follow-up made in response to a complaint within a determined time period, and if necessary, at regular intervals thereafter. The Agency shall follow-up the matter where no report is received from the relevant Member State.

8. Where an expert deployed by the Agency or a Member State, including a seconded national expert is found to have violated fundamental rights or international protection obligations, the Executive Director shall request the Member State to remove that expert or seconded national expert immediately from the activities of the Agency. In the case of an expert deployed by the Agency, the Executive Director shall remove that expert from the activities of the Agency.

9. The Fundamental Rights Officer shall report to the Executive Director and to the Management Board as to the findings and follow-up made by the Agency and the Member States in response to a complaint. The Agency shall include information on the complaints mechanism in its annual report on the situation of asylum in the Union.

9a. Any personal data contained in a complaint shall be handled and processed by the Agency including the Fundamental Rights Officer in accordance with Regulation (EU) No 2018/1725 and by Member States in accordance with Regulation 2016/679 or Directive (EU) 2016/680, as appropriate. When a complainant submits a complaint, that complainant shall be understood to consent to the processing of his or her personal data by the Agency and the fundamental rights officer within the meaning of point (d) of Article 5 of Regulation (EU) No 2018/1725. In order to safeguard the interests of the complainants, complaints shall be dealt with confidentially by the fundamental rights officer in accordance with national and Union law unless the complainant explicitly waives his or her right to confidentiality. When complainants waive their right to confidentiality, it shall be understood that they consent to the Fundamental Rights Officer or the Agency disclosing their identity to the competent authorities or bodies in relation to the matter under complaint, where necessary.

CHAPTER 10
FINANCIAL PROVISIONS

Article 49

Budget

1. Estimates of the revenue and expenditure of the Agency shall be prepared each financial year, corresponding to the calendar year, and shall be shown in the Agency's budget.
2. The Agency's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the Agency's revenue shall comprise:
 - (a) a contribution from the Union entered in the general budget of the European Union;
 - (b) Union funding in the form of delegation agreements or ad hoc grants in accordance with its financial rules referred to in Article 53 and with the provisions of the relevant instruments supporting the policies of the Union;
 - (c) any voluntary financial contribution from the Member States;
 - (d) any contribution from the associated countries;
 - (e) charges for publications and any service provided by the Agency;
4. The expenditure of the Agency shall include staff remuneration, administrative and infrastructure expenses as well as operating expenditure.

Article 50

Establishment of the budget

1. Each year the Executive Director shall draw up a provisional draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.
2. The Management Board shall, on the basis of that provisional draft, adopt a provisional draft estimate of the Agency's revenue and expenditure for the following financial year.
3. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission, the European Parliament and the Council by 31 January each year.
4. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.
5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it considers necessary for the establishment plan and the amount of the subsidy 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.
6. The budgetary authority shall authorise the appropriations for the contribution to the Agency.
7. The budgetary authority shall adopt the Agency's establishment plan.
8. The Agency's budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.
9. For any building project likely to have significant implications for the budget of the Agency, the provisions of the Commission Delegated Regulation (EU) No 1271/2013¹⁷ shall apply.

¹⁷ 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).

Article 51

Implementation of the budget

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

Article 52

Presentation of accounts and discharge

1. By 1 March of the following financial year, the Agency's accounting officer shall send the provisional accounts to the Commission's Accounting Officer and to the Court of Auditors.
2. By 31 March of the following financial year, the Agency shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

By 31 March of the following financial year, the Commission's accounting officer shall send the Agency's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.

3. On receipt of the Court of Auditors' observations on the Agency's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council,¹⁸ the Executive Director shall draw up the Agency's final accounts under his or her own responsibility and submit them to the Management Board for an opinion.

4. The Management Board shall deliver an opinion on the Agency's final accounts.

5. The Executive Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

¹⁸ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

6. The final accounts shall be published in the Official Journal of the European Union by 15 November of the following year.
7. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September. The Executive Director shall also send this reply to the Management Board.
8. 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 the financial year in question, in accordance with Article 165(3) of the Financial Regulation.
9. 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 53

Financial rules

1. The financial rules applicable to the Agency shall be adopted by the Management Board after consulting the Commission. They shall comply with Delegated Regulation (EU) No 1271/2013 except where a derogation from the provisions of that Regulation is specifically required for the Agency's operation and if the Commission has given its prior consent.
2. The Agency may award grants related to the fulfilment of the tasks referred to in Article 2 **and make use of framework contracts** in accordance with this Regulation or by delegation of the Commission pursuant to Article 58(1)(c)(iv) of Regulation (EU, Euratom) No 966/2012.¹⁹ The relevant provisions of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012²⁰ shall apply.

¹⁹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

²⁰ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

CHAPTER 11
GENERAL PROVISIONS

Article 54-a

Protection of Fundamental Rights and Fundamental Rights

Strategy

1. The Agency shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, including the Charter and relevant international law, in particular the Geneva Convention. [...]

1a. The best interests of the child shall be a primary consideration when applying this Regulation.

2. The Agency shall, on a proposal of the Fundamental Rights Officer, establish and implement a Fundamental Rights Strategy to ensure respect for fundamental rights in all the activities of the Agency.

Article 54-ab

Code of Conduct

The Agency shall establish and implement a code of conduct applicable to all experts in the asylum support teams. The code of conduct shall lay down procedures intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on children, unaccompanied minors and other persons in a vulnerable situation.

Article 54

Legal status

1. The Agency shall be a body of the Union. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.
3. The Agency shall be independent as regards operational and technical matters.
4. The Agency shall be represented by its Executive Director.
5. The seat of the Agency shall be Malta.

Article 55

Staff

1. The Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the Union and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Agency.
2. The Management Board shall adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.
3. The powers conferred on the appointing authority by the Staff Regulations and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants shall be exercised by the Agency in respect of its own staff.
4. The Agency may make use of seconded national experts or other staff not employed by the Agency. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the Agency.
5. The Agency may employ staff to work in the field in Member States.

Article 56

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency and its staff.

Article 57

Language arrangements

1. The provisions laid down in Council Regulation No 1²¹ shall apply to the Agency.
2. Without prejudice to decisions taken on the basis of Article 342 of the Treaty, the consolidated annual activity report on the Agency's activities and the programming document shall be produced in all the official languages of the institutions of the European Union.
3. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the bodies of the European Union.

Article 58

Transparency

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.
2. The Agency may communicate on its own initiative in the fields within its mission. It shall make public the consolidated annual activity report and ensure in particular that the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

²¹ Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community (OJ 17, 6.10.1958, p. 385).

3. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for the application of paragraphs 1 and 2.

4. Any natural or legal person shall be entitled to address himself or herself in writing to the Agency in any official language of the Union. He or she shall have the right to receive an answer in the same language.

5. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may be subject to a complaint to the Ombudsman or an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty respectively.

Article 59

Combating fraud

1. In order to facilitate combating fraud, corruption and other unlawful activities Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council²² shall apply without restriction. The Agency shall accede to the Inter-institutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) and adopt appropriate provisions applicable to all the employees of the Agency using the template set out in the Annex to that Agreement.

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

²² Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (EC, Euratom) No 2185/96.²³

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

Article 60

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

1. The Agency shall apply the Commission's rules on security as set out in Commission Decisions (EU, Euratom) 2015/443²⁴ and 2015/444.²⁵ Those rules shall apply, in particular, to the exchange, processing and storage of classified information.

2. The Agency shall also apply the security principles relating to the processing of non-classified sensitive information as set out in the Decisions referred to in paragraph 1 and as implemented by the Commission. The Management Board shall establish measures for the application of those security principles.

²³ Council Regulation (EC, Euratom) 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).

²⁴ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

²⁵ 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).

2a. Classification shall not preclude information being made available to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament in accordance with this Regulation shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European Parliament and the Commission.

Article 61

Liability

1. The Agency's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the case of non-contractual liability, the Agency 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 of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of its staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 62

Administrative monitoring

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

Article 63

Headquarters agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Agency 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, Agency staff and members of their families shall be laid down in a Headquarters Agreement between the Agency and the host Member State, concluded after obtaining the approval of the Management Board.
2. The Agency's host Member State shall provide the [...] **necessary** conditions to ensure the proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Article 65

Report on the situation of asylum in the Union

The Agency shall draw up an annual [...] report on the situation of asylum in the Union [...]. The Agency shall transmit [...] **that** report to the Management Board, the European Parliament, the Council and the Commission. The Executive Director shall present the annual report to the European Parliament. **The annual report on the situation of asylum shall be made public.**

Article 66

Evaluation and review

0. Three months following the replacement of Regulation (EU) No 604/2013, the Commission shall report to the European Parliament and the Council, having evaluated whether this Regulation needs to be amended for the purpose of ensuring coherence and internal consistency of the EU legal framework, in particular as regards the provisions on the monitoring mechanism, and present the necessary proposals to amend this Regulation as appropriate.

1. No later than three years from the day of entry into force of this Regulation, and every five years thereafter, the Commission shall commission an **independent external** evaluation to assess, in particular, the Agency's performance in relation to its objectives, mandate and tasks. That evaluation shall cover the Agency's impact on practical cooperation on asylum-related matters and **on facilitating the implementation of** the CEAS. The evaluation shall take due regard of progress made, within its mandate, including assessing whether additional measures are necessary to ensure effective solidarity and sharing of responsibilities with Member States subject to particular pressure.

The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. It shall also examine whether the management structure is appropriate for carrying out the Agency's duties. The evaluation shall take into account the views of stakeholders, at both Union and national level.

2. The Commission shall send the evaluation report together with its conclusions on the report to the European Parliament, the Council and the Management Board. [...]

3. On the occasion of every second evaluation, the Commission shall consider whether continuation of the Agency is justified with regard to its objectives, mandate and tasks and it may propose that this Regulation be amended accordingly or repealed.

Article 66a

The staff of the European Asylum Support Office shall be transferred to the agency established by this Regulation without any modification of their contracts. The change of agency shall not be considered as a new entry into service and the continuity of career shall be ensured in all respects.

Article 67

Replacement and [...] repeal

1. Regulation (EU) No 439/2010 is **hereby replaced for Member States bound by this Regulation. Therefore, Regulation (EU) No 439/2010 is repealed** with effect from **the date of** entry into force of this Regulation.

2. **For the Member States bound by this Regulation [...]**references to the repealed Regulation shall be construed as references to this Regulation in accordance with the correlation table set out in the Annex.

Article 68

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.

Point (l) of Article 2(1), Article 13, Article 14 (1-~~...~~3) shall apply from ~~...~~31 December 2023 and Articles 14(3a-7) and 22 shall apply from the date of the replacing of Regulation (EU) No 604/2013, unless that replacing occurs before [...]31 December 2023, in which case they shall apply from[...] 31 December 2023.

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

TABLE OF CONTRIBUTIONS TO BE PROVIDED TO THE ASYLUM RESERVE POOL OF 500 EXPERTS

Belgium	15
Bulgaria	8
Czech Republic	8
Germany	86
Estonia	6
Greece	25
Spain	46
France	80
Croatia	5
Italy	40
Cyprus	3
Latvia	5
Lithuania	6
Luxembourg	4
Hungary	10
Malta	4
Netherlands	24
Austria	15
Poland	40
Portugal	7
Romania	20
Slovenia	5
Slovakia	10
Finland	9
Sweden	19
Total	500/500
