



Brussels, 22 December 2020
(OR. en)

13636/20

LIMITE

PHARM 67
SAN 447
MI 549
COMPET 659
IA 125
CODEC 1402

Interinstitutional File:
2018/0018(COD)

NOTE

From:	General Secretariat of the Council
To:	Working Party on Pharmaceuticals and Medical devices
No. prev. doc.:	12951/20 PHARM 52 SAN 404 MI 486 COMPET 559 IA 85 CODEC 1152
No. Cion doc.:	5844/18 PHARM 6 SAN 49 MI 61 COMPET 53 IA 43 CODEC 133 + COR 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council on health technology assessment and amending Directive 2011/24/EU

Delegations will find a Presidency compromise text in the Annex to this Note. This text has been prepared by the German Presidency in cooperation with the incoming Portuguese Presidency based on comments at the meeting of the Working party on Pharmaceuticals and Medical devices on 8 December.

Changes to the text in the Presidency compromise from November (document 12951/20) are indicated as follows:

- New text is set out in ***bold italics***. Deleted text is set out in ~~strikethrough~~.
- Changes that are presented for the first time are in addition underlined.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on health technology assessment and amending Directive 2011/24/EU

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular
Articles 168 and 114 thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee,
Having regard to the opinion of the Committee of the Regions,
Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The development of health technologies is a key driver of economic growth and innovation in the Union. It forms part of an overall market for healthcare expenditure that accounts for 10% of EU gross domestic product. Health technologies encompass medicinal products, medical devices and medical procedures, as well as measures for disease prevention, diagnosis or treatment.
- (2) Health Technology Assessment (HTA) is an evidence-based process that allows competent authorities to determine the relative effectiveness of new or existing technologies. HTA focuses specifically on the added value of a health technology in comparison with other new or existing health technologies.

- (3) HTA can cover both clinical and non-clinical aspects of a health technology, depending on the healthcare system. The EU co-funded joint actions on HTA (EUnetHTA Joint Actions) have identified nine domains by reference to which health technologies are assessed. Of these nine domains, four are clinical and five are non-clinical. The four clinical domains of assessment concern the identification of a health problem and current technology, the examination of the technical characteristics of the technology under assessment, its relative safety, and its relative clinical effectiveness. The five non-clinical assessment domains concern cost and economic evaluation of a technology, its ethical, organisational, social, and legal aspects.
- (4) The outcome of HTA is used to inform decisions concerning the allocation of budgetary resources in the field of health, for example, in relation to establishing the pricing or reimbursement levels of health technologies. HTA can therefore assist Member States in creating and maintaining sustainable healthcare systems and to stimulate innovation that delivers better outcomes for patients.
- (5) The carrying out of parallel assessments by multiple Member States and divergences between national laws, regulations and administrative provisions on the processes and methodologies of assessment can result in health technology developers being confronted with multiple and divergent requests for data. It can also lead to both duplications and variations in outcomes, *which is justified by* ~~due to~~ the specific national health care context.
- (6) While Member States have carried out some joint assessments within the framework of the EU co-funded joint actions, the voluntary cooperation and production of output has been inefficient, relying on project-based cooperation in the absence of a sustainable model of cooperation. Use of the results of the joint actions, including their joint clinical assessments, at Member State-level has remained low, meaning that the duplication of assessments on the same health technology by HTA authorities and bodies in different Member States within identical or similar timeframes has not been sufficiently addressed.

- (7) The Council in its Conclusions of December 2014 acknowledged the key role of health technology assessment and called on the Commission to continue to support cooperation in a sustainable manner.
- (8) The European Parliament, in its resolution of 2 March 2017 on EU options for improving access to medicines, called on the Commission to propose legislation on a European system for health technology assessment as soon as possible and to harmonise transparent health technology assessment criteria in order to assess the added therapeutic value of medicines.
- (9) In its 2015 Communication on upgrading the single market, the Commission declared its intention to introduce an initiative on HTA to increase coordination in order to avoid multiple assessments of a product in different Member States and improve the functioning of the Single Market for health technologies.
- (10) In order to ensure a better functioning of the internal market and contribute to a high level of human health protection Member States should give due consideration to approximate the rules on carrying out clinical assessments at national level according to their national health care context and clinical assessments of certain health technologies at Union level. This could also support the continuation of voluntary cooperation between Member States *or regional multilateral initiatives on HTA-collaboration* on certain aspects of HTA.

- (11) In accordance with Article 168(7) of the Treaty on the Functioning of the European Union (TFEU), the Member States are responsible for the definition of their health policies and for the organisation and delivery of their health services and medical care. These responsibilities of the Member States include the management of health services and medical care and especially the allocation of the resources assigned to them. **Therefore** ~~As such~~, it is necessary **that Union action is limited** ~~to limit the scope of Union rules~~ to those aspects of HTA that relate to the joint clinical assessment of a health technology, and in particular, to ensure that there are no value judgements in joint clinical assessments in order to sustain the responsibilities of Member States pursuant to Article 168(7) TFEU. The outcome of joint clinical assessments should therefore neither affect the discretion of Member States to carry out assessments on the added clinical value of the technologies concerned nor predetermine subsequent decisions on pricing and reimbursement of health technologies, including the fixing of criteria for such pricing and reimbursement decisions, which may depend on both clinical and non-clinical considerations individually, or together, and which remain solely a matter of national competence.
- (12) In order to guarantee the highest quality of joint clinical assessments, ensure a wide acceptance and enable pooling of expertise and resources across national HTA bodies, it is appropriate to follow a stepwise approach starting with a small number of jointly assessed medicinal products and only at a later stage, after careful review, require joint clinical assessments to be carried out for all medicinal products undergoing the central marketing authorisation procedure provided for under Regulation (EC) No 726/2004 of the European Parliament and of the Council, which incorporate a new active substance, and where those medicinal products are subsequently authorised for a new therapeutic indication. Joint clinical assessments should also be carried out on certain medical devices within the meaning of Regulation (EU) 2017/745 of the European Parliament and of the Council which are in the highest risk classes and for which the relevant expert panels have provided their opinions or views. **Furthermore, joint clinical assessments should be carried out on in vitro diagnostic medical devices classified as class D pursuant to Regulation (EU) 2017/746.**

- (13) In order to ensure that joint clinical assessments carried out on health technologies remain accurate and relevant, it is appropriate to establish conditions for the updating of assessments, in particular where additional data available subsequent to the initial assessment has the potential to increase the accuracy of the assessment.
- (14) A coordination group composed of *Member States'* representatives ~~from Member States~~ *with the appropriate technical HTA expertise*, in particular *from* health technology assessment authorities and bodies, should be established with responsibility for overseeing the carrying out of joint clinical assessments and other joint work.
- (15) In order to ensure a Member-State led approach to joint clinical assessments and scientific consultations, Member States should designate the members of the Coordination Group. Those members should be designated with the goal to ensure a high level of competence in the Coordination Group. Members of the Coordination Group should designate health technology authorities and bodies to the subgroups, which provide adequate technical expertise for carrying out joint clinical assessments and joint scientific consultations taking into account the need to provide expertise on the HTA of medicinal products and medical devices.
- (15a) When joint clinical assessments are used to prepare subsequent administrative decisions at Member State level, they constitute one of several preparatory steps in a multi-step procedure. Member States remain the sole entity responsible for national HTA processes, for the conclusions on the value of a health technology and for the decisions resulting from the health technology assessments. Member States may determine at which step of their health technology assessment process, and by which authority or body, the joint clinical assessment reports should be considered.

- (15b) Member States remain free to draw conclusions at national level on the clinical added value of a health technology, as such conclusions depend on the specific healthcare context in any given Member State, and on the relevance of individual analyses included in the joint clinical assessment report (*e.g.* several comparators could be included in the joint clinical assessment report, of which only a selection is relevant to a given Member State). The joint clinical assessment report should include a description of the relative effects observed for the health outcomes analysed, including numerical results and confidence intervals, and an analysis of scientific uncertainty and strengths and limitations of the evidence (*e.g.* internal and external validity). The joint clinical assessment report should be factual and not contain any value judgement, or ranking of **outcomes**, ~~the level of the relative effects~~, nor conclusion on the overall benefit or added clinical value of the assessed health technology; nor any position on the target population in which the technology should be used; nor any position on the place the technology should have in the therapeutic, diagnostic or preventive strategy.
- (15c) Where Member States conduct HTA at national or regional level, for health technologies that were assessed at Union level, they should consider the joint clinical assessment reports at that level. In this regard, especially taking into account that different timing can apply for national HTA decisions, Member States should be able to take into account other information, data, analyses and other evidence that were not part of the joint clinical assessment at EU level.
- (15d) In the context of this regulation, the term “give due consideration”, when applied to a joint clinical assessment report, means that the report is part of the documentation of bodies or organisations involved in HTA activities at Member State or regional level. If the joint clinical assessment report is available, it should be part of the documentation that supports the domestic HTA process. However, the content of the report, scientific in nature, is not binding on those bodies, organisations or on Member States. If a joint clinical assessment report is not available at the time when the national HTA is finalised, this should not delay any subsequent process at Member State level.

- (15e) Health technology developers often face the difficulty of submitting the same information, data, analyses and other evidence to different Member States, and also at various points in time. The duplication of submissions and consideration of different timings for submission across Member States *may in some cases* constitute a significant administrative burden for health technology developers, in particular for smaller companies with limited resources, and *might* contribute to an impeded and distorted market access, leading to lack of business predictability, higher costs, and in the long run negative effects on innovation. Thus, this regulation should provide for a mechanism that ensures that any information, data, analyses and other evidence required for the joint clinical assessment should be submitted at Union level by the health technology developer and only once.
- (16) Member States may perform complementary clinical analyses, which are necessary for their overall national health technology assessment process, on the health technologies for which a joint clinical assessment report is available. Such complementary clinical analyses could be related, *inter alia*, to other patient groups, comparators or outcomes than those included in the joint clinical assessment report, or could be performed using a different methodology, if that methodology would be required in the overall national health technology assessment process of the Member State concerned. Should additional information, data, analyses and other evidence be needed for complementary assessment, Member States should furthermore be able to ask the health technology developers to submit the necessary information, data, analyses and other evidence. This regulation does not restrict in any way Member States' rights to perform non-clinical assessments on the same health technology prior to, during the preparation of or after the publication of a joint clinical assessment report.
- (16a) For medicinal products, randomized blinded controlled directly comparative studies, the methodology of which conforms to international standards of evidence based medicine, should preferentially be considered when conducting a joint clinical assessment. This should, however, not *per se* exclude observational studies, including those based on real world data, when such studies are accessible.

- (17) The time-frame for joint clinical assessments for medicinal products should, as far as possible, be fixed by reference to the time-frame applicable to the completion of the central marketing authorisation procedure provided for under Regulation (EC) No 726/2004. Such coordination should ensure that clinical assessments could effectively facilitate market access and contribute to the timely availability of innovative technologies for patients. Health technology developers should therefore respect the deadlines established pursuant to this Regulation when submitting the requested information, data, analyses and other evidence.
- (18) The establishment of a time-frame for the joint clinical assessments for medical devices should take into account the highly decentralised market access pathway for medical devices and the availability of appropriate evidence data required to carry out a joint clinical assessment. As the required evidence may only become available after a medical device has been placed on the market and in order to allow for the selection of medical devices for joint clinical assessment at an appropriate time, it should be possible for assessments of such devices to take place following market launch of medical devices.
- (19) In all cases, the joint work carried out under this Regulation, in particular the joint clinical assessments, should aim to produce high quality and timely results, and not delay or interfere with the CE marking of medical devices or market access of health technologies. This work should be separate and distinct from regulatory assessments of the safety, quality, efficacy and performance of health technologies carried out pursuant to other Union legislative acts and have no bearing on decisions taken in accordance with other Union legislative acts.

- (20) In order to facilitate the process of preparing joint clinical assessments, health technology developers should, in appropriate cases, be afforded an opportunity to engage in joint scientific consultations with the Coordination Group to obtain guidance on the information, data, analyses and other evidence that is likely to be required from clinical studies. Clinical studies comprise clinical trials of medicinal products, and clinical investigations required for clinical evaluations of medical devices and performance studies required for performance evaluations of *in vitro* diagnostic medical devices. Given the preliminary nature of the consultation, any guidance offered should not be legally binding either on the health technology developers or on HTA authorities and bodies. Such guidance should, however, reflect the state of the art of medical science at the time of the scientific consultation.
- (20a) Where joint scientific consultations are carried out in parallel with the preparation of scientific advice on medicinal products provided for under Regulation (EC) No 726/2004 of the European Parliament and of the Council or consultation on medical devices provided for in Regulation (EU) 2017/745 of the European Parliament and of the Council, those parallel processes, including information exchange between the subgroup and the European Medicines Agency or the expert panel on medical devices, should be carried out with a view to ensure that the evidence generation fulfils the needs of the respective frameworks, while the remits should remain separate.
- (21) Joint clinical assessments and joint scientific consultations necessitate the sharing of confidential information between health technology developers and HTA authorities and bodies. In order to ensure the protection of such information, information provided to the Coordination Group in the framework of assessments and consultations should only be disclosed to a third party after a confidentiality agreement has been concluded. In addition, it is necessary for any information made public about the results of joint scientific consultations to be presented in an anonymised format with the removal of any information of a commercially sensitive nature.

- (22) In order to ensure the efficient use of available resources, it is appropriate to provide for "horizon scanning", to allow the early identification of emerging health technologies that are likely to have a major impact on patients, public health and healthcare systems. Such scanning could be used to support the Coordination Group in planning its work in particular in relation to joint clinical assessments and joint scientific consultations and could also provide information for long term planning purposes on both Union and national level.
- (23) The Union should continue to support voluntary cooperation on HTA between Member States in areas such as in the development and implementation of vaccination programmes, and capacity building of national HTA systems. Such voluntary cooperation should also facilitate synergies with initiatives under the digital single market strategy in relevant digital and data-driven areas of health and care with a view to the provision of additional real world evidence relevant for HTA.
- (24) In order to ensure the inclusiveness and transparency of the joint work, the Coordination Group should engage and consult widely with stakeholders. However, in order to preserve the integrity of the joint work, rules should be developed *in this Regulation* to ensure the independence, and impartiality of patients, clinical and other experts involved.
- (25) In order to ensure a uniform and Member State driven approach to the joint work provided for in this Regulation, the Coordination Group should develop detailed procedural steps and their timing for joint clinical assessments, updates of joint clinical assessments and joint scientific consultations, including the format and templates of submission and report documents and rules for selecting stakeholders. Where appropriate, distinct rules should be developed for medicinal products and medical devices. In the development of such rules, the Coordination Group may take into account the results of the work undertaken in the EUnetHTA Joint Actions.

- (26) In addition, the Coordination Group should develop methodological guidance on the joint work provided for in this regulation following international standards of evidence based medicine, and guidance on the appointment of assessors and co-assessors for joint clinical assessments and joint scientific consultations, including on the scientific expertise required to implement the joint work stipulated in this regulation.
- (27) In order to ensure a uniform approach to the joint work provided for in this Regulation, implementing powers should be conferred on the Commission to establish general procedural rules for ensuring that health technology authorities and bodies carry out joint clinical assessments in an independent and transparent manner, free from conflicts of interest, the mechanisms for the interaction between health technology bodies and health technology developers during joint clinical assessments and the consultation of stakeholders. Where appropriate, distinct rules should be developed for medicinal products and medical devices. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council, as referred to in Article 30.
- (28) In order to ensure that sufficient resources are available for the joint work provided for under this Regulation, the Union should provide funding for the joint work and voluntary cooperation, and for the support framework to support these activities. The funding should cover the costs of producing joint clinical assessment and joint scientific consultation reports. Member States should also have the possibility to second national experts to the Commission in order to support the secretariat of the Coordination Group.
- (29) In order to facilitate the joint work and the exchange of information between Member States on HTA, provision should be made for the establishment of an IT platform that contains appropriate databases and secure channels for communication. The Commission should also ensure a link between the IT platform and other data infrastructures relevant for the purposes of HTA such as registries of real world data.

- (30) In order to ensure the smooth establishment and operation of Union-level joint assessments, as well as to safeguard their quality, it is appropriate to start with a small number of joint assessments. ***After three years of the date of application of this regulation the Commission is empowered to adopt implementing acts stipulating*** ~~Following a careful review after the first 3 years of joint work,~~ a progressive expansion of the number of joint ***clinical*** assessments carried out annually ~~should be duly considered~~. The number of assessments to be carried out should be determined with due regard for the resources of Member States participating ***and thus, prior to the adoption of such an implementing act, the Commission should gather all necessary expertise and in particular consult with the Coordination Group in order to consider a manageable workload.***
- (31) In order to ensure that the support framework continues to be as efficient and cost-effective as possible, the Commission should report to the European Parliament and to the Council on the implementation of this Regulation no later than three years after its application. The report should focus on reviewing the added value of the joint work for Member States. The report may in particular consider whether to progressively expand the scope of this regulation and the timing for such expansion, whether there is a need to strengthen the role of the Commission and whether there is a need to introduce a fee-paying mechanism, ***which would ensure the independence of the Coordination Group,*** through which health technology developers would also contribute to the financing of joint scientific consultations. In addition, the report should review the effect of the non-duplication of the request of information, data, analyses and other evidence for joint clinical assessment in terms of reducing administrative burden for Member States and health technology developers, facilitating market access for new and innovative products and reducing costs.

- (32) When the full scope has been reached, Member States should no later than four years after the beginning of assessing all medicinal products that fall under the scope of this regulation report to the Commission on the application of this Regulation and, in particular, on *their assessment of the added value of the joint clinical assessment reports* ~~consideration of the joint work stipulated in this regulation~~ in their national health technology assessment processes.
- (33) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making of 13 April 2016, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU added value and should be supported by a monitoring programme.
- (34) Directive 2011/24/EU of the European Parliament and of the Council provides that the Union is to support and facilitate cooperation and the exchange of scientific information among Member States within a voluntary network connecting national authorities or bodies responsible for health technology assessment designated by the Member States. As those matters are governed by this Regulation, Directive 2011/24/EU should be amended accordingly.
- (35) The objectives of this Regulation, namely to establish a framework of joint clinical assessments of certain health technologies at Union level, can only be sufficiently achieved by cooperation of the Member States at Union-level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (36) The Commission should neither take part in votes on joint clinical assessments nor comment on the content of joint clinical assessment reports.

- (37) The Coordination Group should ensure that scientific joint work and the procedures and methodology for the preparation of joint clinical assessment reports and joint scientific consultation outcome documents guarantee the highest quality, are prepared in a timely manner and reflect the state of the art of medical science at the time of their preparation.
- (38) The obligation on Member States, not to request at national level any information, data, analyses and other evidence, which has been submitted by health technology developers at Union level, reduces, where health technology developers comply with information submission requirements stipulated pursuant to this Regulation, the administrative and monetary burden for them, resulting from being confronted with multiple and divergent requests for information, data, analyses and other evidence at Member State level. This obligation should however not exclude the possibility for Member States to approach health technology developers with clarifying questions about the submitted information, data, analyses and other evidence.
- (39) The obligation on Member States, to not request at national level, the same information, data, analyses and other evidence that has been submitted by health technology developers at Union level, should not encompass requests of information, data, analyses and other evidence within the scope of early access programs at Member State level.
- (40) Health technology developers should not submit any information, data, analyses and other evidence at the national level that has been submitted at Union level. This guarantees that Member States can only request information, data, analyses and other evidence from health technology developers at Member State level that are not already available at Union level.

HAVE ADOPTED THIS REGULATION:

Chapter I

General Provisions

Article 1

Subject Matter

1. This Regulation establishes:
 - (a) a support framework and procedures for cooperation of Member States on the joint clinical assessment of health technologies at Union level;
 - (b) a mechanism stipulating that any information, data, analyses and other evidence required for the joint clinical assessment is submitted by the health technology developer only once at Union level;
 - (c) common rules and methodologies for the joint clinical assessment of health technologies *at Union level*.

2. This Regulation shall not affect Member States' **competence** ~~rights~~ to draw conclusions on the relative effectiveness of health technologies and to take decisions on the use of a health technology in their specific national health context. It shall not interfere with the exclusive national competence of Member States *including those* for national pricing and reimbursement decisions, nor does it affect *any other competences, which concern* Member States' management and delivery of health services and medical care and the allocation of resources assigned to them.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'medicinal product' means a medicinal product for human use as defined in Directive 2001/83/EC⁶;
- (b) 'medical device' means a medical device as defined in Regulation (EU) 2017/745;
- (ba) 'in vitro diagnostic medical device' means an in vitro diagnostic medical device as defined in Regulation (EU) 2017/746;
- (c) 'health technology' means a health technology as defined in Directive 2011/24/EU;
- (d) 'health technology assessment' means a multidisciplinary process, that summarizes information about the medical, patient and social aspects, economic and ethical issues related to the use of a health technology in a systematic, transparent, unbiased and robust manner;
- (e) '~~Joint clinical assessment of a medicinal product~~ **health technology** means the scientific compilation and the description of a comparative analysis of the available clinical evidence on a health technology in comparison with one or more other health technologies or existing procedures, in accordance with an agreed assessment scope performed under this Regulation and based on the scientific aspects of the following clinical domains of health technology assessment: the description of the health problem addressed by the health technology and the current use of other health technologies addressing that health problem, the description and technical characterisation of the health technology, the relative clinical effectiveness, and the relative safety of the health technology.
- (f) '~~joint clinical assessment of a medical device~~ means the assessment of a method composed of ~~more than one medical device or a method composed of a medical device and a defined care chain of other treatments~~;
- (g) 'non-clinical assessment' means the part of a health technology assessment based on the following non-clinical domains of health technology assessment: the cost and economic evaluation of a health technology, and ethical, organisational, social, and legal aspects related to its use;

- (h) 'collaborative assessment' means a clinical assessment of a medical device carried out at Union level by a number of interested health technology assessment authorities and bodies participating on a voluntary basis.
- (i) 'assessment scope' means the **definition inclusion** of all parameters for joint clinical assessment in terms of population, intervention, comparator and outcomes requested by Member States. The assessment scope shall be inclusive and reflect all Member States' requirements in terms of data and analyses to be submitted by the health technology developer.

Article 3

The Member State Coordination Group on Health Technology Assessment

1. The Member State Coordination Group on Health Technology Assessment (the 'Coordination Group') is hereby established.
2. Member States shall designate their members of the Coordination Group and inform the Commission thereof and of any subsequent changes. The Members of the Coordination group shall appoint their representatives, **who should have the appropriate technical HTA expertise**, in the Coordination Group on an *ad-hoc* or permanent basis, and inform the Commission of their appointment and any subsequent changes.
3. The members of the Coordination Group shall designate their national or regional authorities and bodies as members of the subgroups. The members of the sub-group shall appoint their representatives in the sub-groups on an *ad-hoc* or permanent basis, and inform the Commission of their appointment and any subsequent changes.
4. The Coordination Group shall, in principle, act by consensus. In case consensus cannot be reached, the adoption of a decision shall require support by members representing [majority¹] of the Member States. Each Member State shall have one vote. The results of votes shall be recorded in the minutes of the Coordination Group's meetings. Where a vote takes place, members may ask for dissenting opinions to be recorded in the minutes of the meeting in which the vote took place.

¹ Presidency comment: The inclusion of weighting of votes to be decided in the future.

5. Meetings of the Coordination Group shall be **chaired and** co-chaired by two elected members from the group, representing different Member States, for a set term to be determined in its rules of procedure. ~~Co-chairs shall perform purely administrative functions.~~ The Commission shall act as the Secretariat of the Coordination Group and support its work in accordance with Article 25.
6. The Coordination Group shall:
- (a) adopt its rules of procedure for the conduct of its meetings and update them where necessary;
 - (b) adopt its annual work programme and annual report pursuant to Article 4;
 - (c) provide strategic direction for the work of its sub-groups;
 - (d) **adopt methodological guidance** ~~develop methodological guidance~~ on joint work following international standards of evidence based medicine;
 - (e) **adopt** ~~develop~~ detailed procedural steps and their timing for joint clinical assessments and for updates of joint clinical assessments, including submissions of information, data, analyses and other evidence by health technology developers;
 - (f) **adopt** ~~develop~~ detailed procedural steps and their timing for joint scientific consultations, including submissions of request from health technology developers;
 - (g) **adopt** ~~develop~~ guidance on the appointment of assessors and co-assessors for joint clinical assessments and joint scientific consultations, including on the scientific expertise required;
 - (h) coordinate and approve the work of its sub-groups;
 - (i) ensure cooperation with relevant Union level bodies established pursuant to Regulation (EC) No 726/2004, Regulation (EU) 2017/745 and Regulation (EU) 2017/ 746 to facilitate additional evidence generation necessary for its work;
 - (j) ensure appropriate involvement of stakeholders in its work
 - (k) establish sub-groups, in particular for the following:
 - (i) joint clinical assessments;
 - (ii) joint scientific consultations;
 - (iii) identification of emerging health technologies;
 - (iv) development of methodological and procedural guidance;

7. The Coordination Group may meet in different configurations, notably for the following categories of health technology: medicinal products, medical devices and other health technologies.

Article 3a

Quality Assurance

1. The Coordination Group shall ensure that the joint work carried out pursuant to Chapter II is of the highest quality, following international standards of evidence based medicine, and delivered in a timely manner. To this aim, the Coordination Group shall establish procedures that are systematically reviewed.
2. In particular, the Coordination Group shall establish and regularly review standard operating procedures describing:
 - (a) Transparent criteria and procedures for the selection of assessors and external experts;
 - (b) The necessary skills, expertise and the required resources of the assessors;
 - (c) The procedure for determining methodologies and the procedure for Joint Clinical Assessments and Joint Scientific Consultations;
3. The Coordination Group shall regularly review and where necessary update guidance prepared in accordance with paragraph 6 of Article 3, including:
 - (a) methodological guidance, that reflects the state of the art, on joint clinical assessments and joint scientific consultations;
 - (b) guidance on the appointment of assessors and co-assessors for joint clinical assessments and joint scientific consultations, including on the scientific expertise required;
 - (c) guidance on the review of the procedures and methods used and the work of assessors performing joint clinical assessments and joint scientific consultations;
 - (d) the detailed procedural steps of joint clinical assessments and their timing.
4. Where appropriate, distinct rules shall be developed for medicinal products and medical devices.

Article 3b

Transparency and conflict of interest

1. The Coordination Group shall carry out its activities in an independent, impartial and transparent manner.
2. Representatives appointed to the Coordination Group and its sub-groups shall not have any financial, nor other interests in the health technology industry, which could affect their independence or impartiality.
3. The representatives shall make a declaration of their financial and other interests and update them annually and whenever necessary. They shall disclose any other facts of which they become aware that might in good faith judgment reasonably be expected to involve or give rise to a conflict of interest.
4. Representatives who participate in meetings of the Coordination Group and its sub-groups shall declare, before each meeting, any interests which could be considered to be prejudicial to their independence or impartiality with respect to the items on the agenda. Where the Commission decides that a declared interest constitutes a conflict of interest, that representative shall not take part in any discussions and decision, nor obtain any information concerning that item of the agenda. Such declarations of representatives and the decision of the Commission shall be recorded in the summary minutes of the meeting.
5. Patients, clinical experts and other experts shall declare any financial and other interests relevant to the joint work in which they are due to participate. Such declarations and any actions taken as a result shall be recorded in the summary minutes of the meeting and in the outcome documents of the joint work in question.
6. Representatives appointed to the Coordination Group and its sub-groups as well as patients, clinical experts and other experts involved in the work of any sub-group shall, even after their duties have ceased, be subject to a requirement of professional secrecy.

7. The Commission shall lay down rules for the implementation of this Article in accordance with Article 22(1)(a)(i) and in particular rules for the assessment of conflict of interest referred to in paragraphs 3, 4 and 5 and the action to be taken where a conflict or potential conflict of interest arises.

Article 4

Annual Work Programme and Annual report

1. The Coordination Group shall each year, at the latest by 30 November, adopt an annual work programme .
2. The annual work programme shall set out the joint work to be carried out in the calendar year following its adoption, covering:
 - (a) the planned number and type of joint clinical assessments, and the planned number of updates of joint clinical assessments according to Article 9. Where medicinal products are concerned, the work programme shall cover all products within the scope of Article 5(1);
 - (b) the planned number of joint scientific consultations;
 - (c) the planned number of assessments in the area of voluntary cooperation.

3. In the preparation *or amendment* of the annual work programme, the Coordination Group shall:
 - (a) take into account the reports on emerging health technologies referred to in Article 18;
 - (b) take into account the information provided by the European Medicines Agency on the status of submitted and upcoming marketing authorisation applications for medicinal products referred to in Article 5; *As ongoing new regulatory data becomes available such information is to be shared with the Coordination Group so the annual work programme can be amended;*
 - (c) take into account information provided by the Medical Devices Coordination Group established in Article 103 of Regulation (EU) 2017/745 on the work of the relevant expert panels;
 - (d) consult the stakeholder network;
 - (e) take into account the resources available to the Coordination Group for the joint work;
 - (f) consult the Commission on the draft annual work programme and take its opinion into account.
4. The Coordination Group may amend the annual work programme, if required, in accordance with this Article.
5. The Coordination Group shall each year, at the latest by 28 February, adopt an annual report.
6. The annual report shall provide information on the joint work carried out in the calendar year preceding its adoption.

Chapter II

Joint Work on Health Technology Assessment at Union Level

SECTION 1

JOINT CLINICAL ASSESSMENTS

Article 5

Health technologies subject to Joint Clinical Assessments

1. The following health technologies shall be subject to joint clinical assessments:
 - (a) medicinal products for human use that are provided for in Regulation (EC) No 726/2004, pursuant to Article 3(1) and (2)(a) thereof and for which the application for a marketing authorization in accordance with Regulation (EC) No 726/2004 is submitted after the dates referred to in paragraph 2 and that application is based on Article 8(3) of Directive 2001/83/EC;
 - (b) medicinal products for which a joint clinical assessment report is available, in cases where an authorisation is granted pursuant to the second subparagraph of Article 6(1) of Directive 2001/83/EC for a variation to an existing marketing authorisation in order to include a new therapeutic indication;
 - (c) medical devices classified as class IIb and III pursuant to Article 51 of Regulation (EU) 2017/745 for which the relevant expert panels have provided a scientific opinion in the framework of the clinical evaluation consultation procedure pursuant to Article 54 of that Regulation;
 - (d) *in vitro* diagnostic medical devices classified as class D pursuant to Article 47 of Regulation (EU) 2017/746 for which the relevant expert panels have provided their views in the framework of the procedure pursuant to Article 48(6) of that Regulation.

2. The dates to be set in accordance with paragraph 1 point (a) shall be as follows:
- (a) [*the date of application of this Regulation*], for medicinal products for which the therapeutic indication is the treatment of cancer.
 - ~~(b) [after a positive review regarding the satisfaction of Member States' needs according to Article 28 of this Regulation], for medicinal products which are designated as orphan medicinal products pursuant to Regulation (EC) No 141/2000 and medicinal products which are regulated as advanced therapy medicinal products pursuant to Regulation (EC) No 1394/2007;~~ **Three years after the date of application of this regulation the Commission is empowered to adopt an implementing act that sets out the date as from which the obligation to prepare joint clinical assessments for medicinal products which are designated as orphan medicinal products pursuant to Regulation (EC) No 141/2000 and medicinal products which are regulated as advanced therapy medicinal products pursuant to Regulation (EC) No 1394/2007 shall apply;**
 - (c) [~~5 years after the date of application of this Regulation, provided a positive review according to Article 29 of this Regulation~~], for medicinal products for which the therapeutic indication is the treatment of any of the diseases referred to in point 3 of Annex I to Regulation (EC) No 726/2004~~3~~ other than cancer; **Five years after the date of application of this regulation the Commission is empowered to adopt an implementing act that sets out the date as from which the obligation to prepare joint clinical assessments for medicinal products for which the therapeutic indication is the treatment of any of the diseases referred to in point 3 of Annex I to Regulation (EC) No 726/2004 other than cancer shall apply;**
 - (d) [~~8 years after the date of application of this Regulation, provided a positive review according to Article 29 of this Regulation~~], for all other medicinal products. **Eight years after the date of application of this regulation the Commission is empowered to adopt an implementing act that sets out the date as from which the obligation to prepare joint clinical assessments for medicinal products referred to in paragraph 1 shall apply.**

3. By way of derogation from paragraph 2, medicinal products referred to in paragraph 2 may be subject to joint clinical assessment at an earlier date than the dates set out in paragraph 2 points (a) to (d), provided that all of the following conditions are met:
 - (a) The Coordination Group unanimously agrees that the medicinal product has the potential to **address an unmet medical need** ~~provide a significant breakthrough in the treatment of patients~~, or has a significant impact on health care systems ~~or covers an unmet medical need~~;
 - (b) The name of the medicinal product is included in the Annual Work Programme for the year in which the joint clinical assessment shall take place.
4. ***The implementing acts referred to in paragraph 2 shall be adopted in accordance with the examination procedure referred to in Article 30(2).***

Article 6

Scoping Process for Joint Clinical Assessments

1. The Coordination Group shall carry out joint clinical assessments on health technologies on the basis of its annual work programme.
2. The Coordination Group shall initiate joint clinical assessments of health technologies by designating the sub-group on joint clinical assessments to oversee the implementation of the joint clinical assessment on behalf of the Coordination Group.
3. The joint clinical assessment shall be implemented in accordance with the procedure established by the Coordination Group according to the requirements set out in this Article, in point (e) of paragraph 6 of Article 3 and in Articles 3a, 6a, 6b, 6c, 6d, as well as the requirements to be established pursuant to Articles 22 and 23.

4. The designated sub-group shall appoint, from among its members, an assessor and a co-assessor from different Member States to **conduct** ~~implement~~ the joint clinical assessment. The appointments shall take into account the scientific expertise necessary for the assessment. If the health technology has been the subject of a joint scientific consultation under Article 11a, the assessor and the co-assessor shall be different from those appointed pursuant to Article 13 for the preparation of the joint scientific consultation outcome document.
5. Notwithstanding paragraph 4, where the necessary specific expertise is otherwise not available, the same assessor and/or co-assessor involved in the joint scientific consultation may be appointed to implement the joint clinical assessment. Such appointment shall be justified and subject to approval of the Coordination Group and shall be documented in the joint clinical assessment report.
6. The designated sub-group shall initiate a scoping process in which it identifies the relevant parameters for the assessment scope. The assessment scope shall be inclusive and reflect all Member States needs in terms of parameters and of the information, data, analysis and other evidence to be submitted by the health technology developer. It shall identify in particular all the relevant parameters for the assessment in terms of:
 - (a) the patient population including patient subgroups;
 - (b) the intervention or interventions;
 - (c) the comparator or comparators;
 - (d) the health outcomes.The scoping process shall also take into account input received from patients and clinical experts.
7. The Coordination Group shall inform the Commission of the assessment scope of the joint clinical assessment.

Article 6a

The Joint Clinical assessment Reports and the dossier of the health technology developer

1. A joint clinical assessment shall result in a joint clinical assessment report that shall be accompanied by a summary report (hereinafter "the reports"). The reports shall not contain any value judgement or conclusions on the overall clinical added value of the assessed health technology and shall be limited to a description of the scientific analysis:
 - (a) of the relative effects of the health technology as assessed on the health outcomes against the chosen parameters based on the assessment scope as set out pursuant to Article 6;
 - (b) of the degree of certainty of the relative effects taking into account the strengths and limitations of the available evidence.

2. The reports shall be based on ***a dossier of*** the complete and up-to-date information, data, analyses and other evidence submitted by the health technology developer to assess the parameters identified in the scoping process pursuant to Article 6. ~~The health technology developer shall submit such information, data, analyses and other evidence in the form of a dossier pursuant to entry (i) under point (a) of Article 23.~~ ***The dossier shall meet the following requirements:*** A general requirement for the dossier is that the ***submitted*** evidence submitted for assessment is not selective but ***is*** complete with regard to the available studies and data that could inform the assessment. ~~Furthermore, the data must have been~~ ***shall be*** analysed using appropriate methods to answer all research questions of the assessment. ~~In addition,~~ the data presentation shall be well-structured and transparent to allow an appropriate assessment within the limited timeframes available and to support the understanding of the submission and the assessment by third parties. ~~Moreover, the submission dossier shall~~ ***it shall*** include underlying documentation of the information presented to allow the assessors to check the content of the submission. ***The Dossier for medicinal products shall in particular include the information stipulated in Annex I and for medical devices the dossier shall at least include the information stipulated in Annex II.***

3. *The Commission is empowered to adopt implementing acts to adjust the information required in the Dossier for medicinal products in Annex I and for medical devices in Annex II. Implementing acts referred to in this paragraph shall be adopted in accordance with examination procedure referred to in Article 30(2).*

~~The dossier shall in particular include the following information:²~~

~~(a) For medicinal products it shall include:~~

~~(aa) the clinical safety and efficacy modules of the submission file to the European Medicines Agency, including the corresponding raw data;~~

~~(bb) all up-to-date published and unpublished information, data, analyses and other evidence as well as study reports and study protocols from studies with the medicinal product for which the health technology developer was a sponsor and all available information on ongoing or discontinued studies with the medicinal product for which the health technology developer is a sponsor or otherwise financially involved, and corresponding information about studies by third parties if available, relevant to the assessment scope set in accordance with paragraph 6 of Article 6, including the clinical study reports and clinical study protocols if available to the health technology developer; HTA reports on the health technology subject to the joint clinical assessment;~~

~~(cc) information on study registries available to the health technology developer;~~

~~(dd) if a health technology has been subject to a Joint Scientific Consultation, the developer shall explain any deviation from the recommended evidence;~~

~~(ee) characterisation of the medical condition to be treated including the target patient population;~~

~~(ff) characterisation of the medicinal product under assessment;~~

~~(gg) research question of the dossier, for instance parameters pursuant to Article 6(6) elaborated in the submission dossier; they shall reflect~~ing~~ the assessment scope;~~

² Moved to Annex I.

- ~~(hh) description of methods used by the health technology developer in the development of the content of the dossier, including e.g. methods for information retrieval, data analysis and data synthesis; based on specifications of general requirements for the methods to be used by the health technology developer in the respective template and guidelines;~~
 - ~~(ii) results of information retrieval, including results of individual search and study selection steps and relevant study pool(s);~~
 - ~~(jj) characteristics of included studies, including study design and methods of individual studies, characteristics of patient populations of included studies and analyses;~~
 - ~~(kk) results on effectiveness and safety *of the intervention under assessment and the comparator* by presentation of each relevant individual study and data presentation by parameters pursuant to Article 6 (6) defined in the assessment scope, including results for all available endpoints as specified in the assessment scope from all relevant available studies and analyses; **pooled analyses and indirect treatment comparisons as required;**~~
 - ~~(ll) underlying documentation (provided in annexes and appendices); documentation of information retrieval, presentation of specific details on individual studies (e.g. detailed methods); documentation of individual studies (clinical study reports); documentation of analyses performed for the submission dossier (e.g. reports on indirect comparisons); documentation from the regulatory submission; full texts of references literature.~~
- ~~(b) For medical devices the dossier shall at least include:³~~
- ~~(aa) the clinical evaluation and assessment report;~~
 - ~~(bb) the manufacturer's clinical evaluation documentation submitted to the notified body pursuant to Annex II Section 6.1 (c) and (d) of Regulation (EU) 2017/745;~~
 - ~~(cc) the scientific opinion provided by the relevant expert panels in the framework of the clinical evaluation consultation procedure.~~

³ Moved to Annex II.

Article 6b

Obligations of health technology developers and consequences of non-compliance

1. The Commission shall inform the health technology developer of the assessment scope and request the submission of the dossier (1st request). The **submission** request of the Commission shall include the **deadline timeframe** for submission, as well as the dossier template pursuant to entry (i) under point (a) of Article 23. For medicinal products, the deadline for submission shall be at the latest 60 days prior to the envisaged **date of** positive CHMP opinion.
2. The health technology developer shall submit the dossier to the Commission **in accordance with the submission** according to the Commission request **pursuant to paragraph 1**.
3. The health technology developer shall not submit any information, data, analyses and other evidence at the national level that has been submitted at Union level.
4. Where the Commission confirms the timely submission of the dossier pursuant to paragraph 1 and **that the dossier meets** verifies its formal completeness pursuant to the **formal** requirements laid out in paragraph 2 of Article 6a, **Annex I and Annex II**, the Commission shall make the dossier immediately available to the members of the Coordination Group via the IT platform referred to in Article 27 **and inform the health technology developer thereof**.
5. Where the Commission finds that the dossier **fails to meet the formal requirements laid out in paragraph 2 of Article 6a, Annex I and Annex II** is formally incomplete, it shall request the missing information, data, analyses and other evidence from the health technology developer (2nd request), who shall submit the requested information, data, analyses and other evidence within five working days from the receipt of the request.

6. Where the Commission deems that a dossier was not submitted in a timely manner by the health technology developer, or attests that it *fails to meet the formal requirements laid out in paragraph 2 of Article 6, Annex I and Annex II* ~~was formally incomplete~~ (after the 2nd request), the Coordination Group shall discontinue the joint clinical assessment. The ~~Commission~~ ~~Coordination Group~~ shall make the following statement on the IT platform *referred to in Article 27*: “The joint clinical assessment has been discontinued due to the failure of the health technology developer to comply with the requirements of Regulation (EU) [reference to this Regulation].” This statement of discontinuation shall be accompanied by a list of information, data, analyses and other evidence that were not submitted by the health technology developer. In case of discontinuation of the joint clinical assessment paragraph 3 and point (c) of paragraph 1 of Article 8 shall not apply.
7. Where the joint clinical assessment is discontinued and the Coordination Group receives information, data, analyses and other evidence that had been requested from the health technology developer from Member States pursuant to point (d) of Article 8(1), the Coordination Group should carry out an assessment in accordance with the procedure pursuant to Article 9 *six months* ~~one year~~ after the submission deadline pursuant to paragraph 1, when the Commission has *confirmed that formal requirements laid out in paragraph 2 of Article 6, Annex I and Annex II are fulfilled* ~~verified the formal completeness pursuant to the requirements laid out in paragraph 2 of Article 6a~~. This is without prejudice to the right of the Coordination Group to request the developer to submit updates ~~of~~ previously provided information, data, analyses and other evidence.

Article 6c

Assessment Process for Joint Clinical assessments

1. On the basis of the dossier submitted by the health technology developer and the assessment scope as set pursuant to Article 6(6), the assessor, with the assistance of the co-assessor, shall prepare the draft reports. The reports shall be endorsed by the Coordination Group according to the timeline *set* pursuant to point (e) of paragraph 6 of Article 3. ***The end of that timeline shall be:***
 - (a) for medicinal products no later than 30 days following the marketing authorisation granted by the Commission;
 - (b) for medical devices within a reasonable time after the Notified Body has provided the health technology developer with a certificate in accordance with the procedures for Joint Clinical Assessments developed pursuant to point (e) of paragraph 6 of Article 3.
2. Where the assessor, with the assistance of the co-assessor, at any time during the preparation of the reports, considers that further specifications or clarifications or additional information, data, analyses ***and*** ~~or~~ other evidence are necessary in order to carry out the assessment; the health technology developer shall be requested by the Commission to provide such information. The assessors may also have recourse to databases and other sources of clinical information where deemed necessary.
3. The members of the designated sub-group shall provide their comments on the draft reports.
4. The sub-group shall ensure that specified experts on the assessment topic, including patients, clinical and other relevant experts, are given an opportunity to provide comments on the draft reports. Such comments shall be provided within a defined framework and in a time-frame set pursuant to the procedure devised by the Coordination Group. Comments on the draft reports shall immediately be made available to the Coordination Group via the IT platform.

5. The draft reports shall also be provided to the health technology developer. The health technology developer shall signal any purely technical or factual inaccuracies within 5 working days after having received the draft reports. The health technology developer shall not provide any comments on the results of the draft assessment.
6. Following receipt and consideration of comments provided in accordance with this Article, the assessor, with the assistance of the co-assessor, shall prepare revised draft reports, and submit those revised draft reports to the Coordination Group via the IT Platform referred to in Article 27.

Article 6d

Finalisation of the Joint Clinical assessment

1. Upon receipt of the revised draft reports, the Coordination Group shall review the reports.
2. Where a member of the Coordination Group disagrees with the scientific analysis in the revised draft reports, that member may request to have a divergent scientific view included in the reports. The divergent scientific view of that member shall be incorporated in the revised draft reports and made available to the Coordination Group via the IT Platform referred to in Article 27.
3. When all divergent scientific views have been incorporated in the reports, the Coordination Group shall notwithstanding Article 3(4) sentence 2 endorse the reports by consensus, within the timeline set pursuant to point (e) of paragraph 6 of Article 3.

4. The Coordination Group shall submit the reports to the Commission for procedural review. Where the Commission, within **5 working days** ~~a specified time, in accordance with the timeline pursuant to point (e) of paragraph 6 of Article 3,~~ of receipt of the endorsed reports, concludes that they do not comply with the procedural requirements laid down in this Regulation or as determined by the Coordination Group ***pursuant to this Regulation***, it shall inform the Coordination Group of the reasons for its conclusion and request a review of the reports. The Coordination Group shall review the reports from a procedural point of view, ***take any necessary corrective actions***, and re-endorse the reports in accordance with the procedure laid down in paragraph 3.
5. The Commission shall publish the reports endorsed or re-endorsed by the Coordination Group on the IT platform referred to in Article 27 and shall inform the health technology developer of the publication. ***If the Commission concludes that the re-endorsed reports still do not comply with the procedural requirements laid down in this Regulation or as determined by the Coordination Group pursuant to this Regulation, it shall publish its procedural review on the IT platform referred to in Article 27 for the consideration of Member States.***
6. The reports have administrative significance for any health technology assessment at Member State level and have no external impact for applicants and other parties other than the Member States; Member States are free to draw their own value judgements and conclusions on the overall clinical added value of a health technology in the context of their specific health care system.

Article 8

Member States' Rights and Obligations

1. When carrying out a national health technology assessment on a health technology for which reports have been published or in respect of which a joint clinical assessment has been initiated, Member States:
 - (a) shall give due consideration to the published reports and all other information available on the IT platform referred to in Article 27, including the statement of discontinuation pursuant to Article 6b(6), on that joint clinical assessment in their health technology assessments at Member State level. Member States shall decide at their own discretion which parts of the reports they consider according to their national health care context;
 - (b) shall annex the dossier submitted by the health technology developer in accordance with Article 6b(1 ~~2~~) to the documentation of the health technology assessment at Member State level;
 - (c) shall not request at the national level information, data, analyses and other evidence that has been submitted by the health technology developer at EU level according to paragraphs 1 or 5 of Article 6b;
 - (d) shall immediately share through the IT platform referred to in Article 27 any information, data, analyses and other evidence with the Coordination Group that they receive from the health technology developer at Member State level and which fall in the submission request pursuant to Article 6(1);
 - (e) shall give due consideration to the methodological guidance established pursuant to this regulation, according to their national health care context.

2. Member States shall provide the Coordination Group through the IT platform referred to in Article 27 with the national health technology assessment on a health technology which has been subject to a joint clinical assessment within 30 days from its completion. The Commission shall **summarize** ~~analyse~~ the uptake of the reports in health technology assessments at Member State level and publish a report on that **overview** ~~analysis~~ on the IT platform referred to in Article 27 at the end of each year to facilitate the exchange of information between Member States.

Article 9

Updates of Joint Clinical Assessments

1. The Coordination Group shall carry out updates of joint clinical assessments where:
 - (a) the Commission Decision to grant the marketing authorisation of a medicinal product referred to in Article 5(1)(a) was conditional on the fulfilment of additional post-authorisation requirements;
 - (b) the initial joint clinical assessment report specified the need for an update once additional evidence for further assessment became available;
 - (c) ~~the joint clinical assessment was discontinued. The assessment shall be carried out one year after the submission deadline pursuant to Article 6b(1) in accordance with the procedures for updates of Joint Clinical Assessments developed pursuant to point (e) of paragraph 6 of Article 3.~~

2. ***Where the joint clinical assessment was discontinued, an assessment according to paragraph 7 of Article 6b should be carried out in accordance with the procedures for updates of Joint Clinical Assessments adopted pursuant to point (e) of paragraph 6 of Article 3.***

3. The Coordination Group may carry out updates of joint clinical assessments where requested by one or more of its members.

- 4.3. Without prejudice to paragraph 1, ~~and 2,~~ ***and 3*** Member States may carry out national updates of assessments on health technologies that have been subject to a joint clinical assessment. Such updates shall be shared with the members of the Coordination Group via the IT platform.

Article 11

Adoption of Detailed Procedural Rules for Joint Clinical Assessments

1. The Commission shall develop, by means of implementing acts, procedural rules for:
 - (a) exchange of information with the European Medicines Agency on the preparation and update of joint clinical assessments of medicinal products;
 - (b) exchange of information with the notified bodies and expert panels on the preparation and update of joint clinical assessments of medical devices.
2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(2).

SECTION 2

JOINT SCIENTIFIC CONSULTATIONS

Article 11a

Principles for Joint Scientific Consultations

1. The Coordination Group shall carry out joint scientific consultations. Joint scientific consultations have the aim to exchange with health technology developers on their development plans, so evidence can be generated that meets the evidence needs likely to be required as part of a joint clinical assessment. The joint scientific consultation shall encompass a face to face *or video* meeting with the health technology developer and result in an outcome document that outlines the scientific recommendation. Joint scientific consultations shall in particular concern all relevant clinical study, or clinical investigation design aspects, including but not be limited to, comparators, interventions, health outcomes, and patient populations. When providing joint scientific consultations on health technologies other than pharmaceuticals, the specificities of those health technologies shall be taken into account.
2. Joint scientific consultations shall be carried out for health technologies likely to be the subject of joint clinical assessments in accordance with Article 5 and, for medicinal products, for which clinical studies are still in the planning stage.

3. The joint scientific consultation outcome document shall not be legally binding on Member States, on the Coordination Group or on health technology developers.
4. Where a Member State carries out a national scientific consultation on a health technology that has been the subject of a joint scientific consultation, it shall inform the Coordination Group thereof via the IT platform. Joint scientific consultations can take place in parallel with scientific advice from the European Medicines Agency pursuant to Article 57(1)(n) of Regulation (EC) No 726/2004. Such parallel consultations imply the exchange of information and synchronised timing, while the respective remits remain separate. Joint scientific consultations on medical devices can take place in parallel with the expert panels pursuant to Article 61(2) of Regulation (EU) 2017/745.

Article 12

Requests for Joint Scientific Consultations

1. For health technologies referred to in Article 11a(2), health technology developers may request a joint scientific consultation.
2. Health technology developers of medicinal products may request that the joint scientific consultation takes place in parallel with the process of receiving scientific advice from the European Medicines Agency. In such a case, the health technology developer shall make the request for scientific advice to the European Medicines Agency at the time of submitting the request for the joint scientific consultation. Health technology developers of medical devices may request that the joint scientific consultation takes place in parallel with the consultation of an expert panel. In such a case, it shall make the request for a consultation with the expert panel at the time of submitting the request for the joint scientific consultation.

3. The Coordination Group shall publish the dates of request periods and state the planned number of joint scientific consultations for each of those request periods on the IT platform. At the end of each request period, where the number of eligible requests in accordance with Article 11a(2) exceeds the number of planned joint scientific consultations, the Coordination Group shall select the health technologies that shall be subject to joint scientific consultations ***ensuring the equal treatment of requests concerning health technologies with similar intended indications***. The criteria for selecting from eligible requests for medicinal products and medical devices are:
 - (a) unmet medical needs;
 - (b) first in class, *or*;
 - (c) the potential impact on patients, public health, or healthcare systems.;
 - (d) ~~the need to ensure the equal treatment of requests concerning health technologies with similar intended indications.~~

4. Within 15 working days after the end of each request period, the Coordination Group shall inform the requesting health technology developer whether or not it will engage in the joint scientific consultation and shall explain the reasons.

Article 13

Preparation of the Joint Scientific Consultations

1. Following the acceptance of a request for a joint scientific consultation in accordance with Article 12, the Coordination Group shall initiate joint scientific consultations by designating the sub-group on joint scientific consultations.

2. The health technology developer shall submit the documentation containing the information necessary for the joint scientific consultation in the timeframe set pursuant to point (f) of paragraph 6 of Article 3.

3. The designated sub-group shall appoint from among its members, an assessor and a co-assessor from different Member States to conduct the joint scientific consultation. The appointments shall take into account the scientific expertise necessary for the consultations.

4. The assessor, with the assistance of the co-assessor, shall prepare the draft joint scientific consultation outcome document in accordance with the requirements in this Article and in accordance with the guidance documents and procedural rules established pursuant to point (f) of paragraph 6 of Article 3 and Article 16.
5. The members of the designated sub-group shall have the opportunity to provide their comments during the preparation of the draft joint scientific consultation outcome document. Members of the designated sub-group may, as appropriate, provide additional recommendations specific to their individual Member State.
6. The designated sub-group shall ensure that patients, clinical experts and other experts are given an opportunity to provide input during the preparation of the draft joint scientific consultation outcome document.
7. The designated subgroup shall organise a face to face meeting for an exchange of views with the health technology developer and relevant experts.
8. Where the joint scientific consultation is carried out in parallel with the preparation of scientific advice given by the European Medicines Agency or consultations of expert panels, representatives of the Agency or those panels shall also participate in the face to face meeting.
9. Following receipt and consideration of any comments and input provided in accordance with this Article, the assessor, with the assistance of the co-assessor, shall finalise the draft joint scientific consultation outcome document.
10. The assessor, with the assistance of the co-assessor, shall submit the final draft joint scientific consultation outcome document, including any recommendations specific to individual Member States, to the Coordination Group.

Article 13b

Approval of Joint Scientific Consultation Outcome Documents

1. The finalised draft joint scientific consultation outcome document shall be subject to the approval of the Coordination Group within the timeline set pursuant to point (f) of paragraph 6 of Article 3.
2. The Coordination Group shall send the joint scientific consultation outcome document to the requesting health technology developer at the latest 10 working days after it has been finalised.
3. The Coordination Group shall include anonymised, aggregated, non-confidential summary information on the joint scientific consultations in its annual reports and the IT platform referred to in Article 27.

Article 16

Adoption of Detailed Procedural Rules for Joint Scientific Consultations

1. After consulting the Coordination Group, the Commission shall develop, by means of implementing acts, procedural rules for:
 - (a) the consultation of patients, clinical experts and other relevant experts;
 - (b) exchange of information with the European Medicines Agency on joint scientific consultations on medicinal products where a health technology developer requests the consultation to be carried out in parallel with a process for scientific advice from the Agency;
 - (c) exchange of information with the expert panels referred to in Article 106(1) of Regulation (EU) 2017/745 on the joint scientific consultations on medical devices where a health technology developer requests the consultation to be carried out in parallel with the consultation of those expert panels.
2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(2).

Article 17

*Contents of Submission and Report Documents and
Rules for Selecting Stakeholders for Joint Scientific Consultations*

The Coordination Group shall establish:

- (a) the format and templates of:
 - (i) requests from health technology developers for joint scientific consultations;
 - (ii) dossiers of information, data and evidence to be submitted by health technology developers for joint scientific consultations;
 - (iii) joint scientific consultation outcome documents.
- (b) the rules for determining the stakeholders to be consulted for the purpose of this Section.

SECTION 3

EMERGING HEALTH TECHNOLOGIES

Article 18

Identification of Emerging Health Technologies

1. The Coordination Group shall ensure the preparation of reports on emerging health technologies expected to have a major impact on patients, public health or healthcare systems. The reports shall in particular address the estimated clinical impact and the potential organisational and financial consequences of the emerging health technology for national health care systems.

2. The preparation of the reports referred to in paragraph 1 shall be based on existing scientific reports or initiatives on emerging health technologies and relevant sources including, but not limited to:
- (a) Clinical study registers and scientific reports;
 - (b) the European Medicines Agency in relation to upcoming submissions of applications for medicinal products referred to in Article 5(1);
 - (c) the Medical Devices Coordination Group established in Article 103 of Regulation (EU) 2017/745;
 - (d) health technology developers on health technologies they are developing;
 - (e) the Stakeholder Network.

SECTION 4
VOLUNTARY COOPERATION ON HEALTH TECHNOLOGY
ASSESSMENT

Article 19

Voluntary Cooperation

1. The Commission shall support cooperation and the exchange of scientific information among Member States on:
 - (a) non-clinical assessments on health technologies;
 - (b) collaborative assessments on medical devices;
 - (c) health technology assessments on health technologies other than medicinal products or medical devices;
 - (d) the provision of additional evidence necessary to support health technology assessments.
 - (e) clinical assessments of health technologies referred to in Article 5 for which a joint clinical assessment is not yet initiated and of health technologies not referred to in Article 5, in particular health technologies for which the study on emerging health technologies referred to in Article 18 has concluded that they are expected to have a major impact on patients, public health or healthcare systems.
2. The Coordination Group shall be used to facilitate the cooperation referred to in paragraph 1.
3. The cooperation referred to in paragraph 1 points (b) and (c) may be carried out using the procedural rules established in accordance with Article 3(6), Article 11 and the general rules established in accordance with Articles 22 and 23.
4. The cooperation referred to in paragraph 1 shall be included in the annual work programmes of the Coordination Group and the results of the cooperation shall be included in its annual reports and on the IT platform referred to in Article 27.

Chapter III

General Rules for Joint Clinical Assessments

Article 20

Rules for Joint Clinical Assessments

The common procedural rules established in accordance with Article 22 and the requirements established in accordance with Article 23 shall apply to joint clinical assessments carried out in accordance with Chapter II.

Article 21

Clinical Assessment Reports

1. Where a clinical assessment **on a health technology subject to joint clinical assessment at Union level** is carried out by a Member State, that Member State shall provide the **national clinical assessment on that health technology to the Coordination Group through the IT Platform referred to in Article 27** ~~Commission with the clinical assessment report and summary report at the latest~~ **within** 30 ~~working~~ days ~~after the~~ **from its** completion ~~of the health technology assessment~~.
2. The Commission shall publish the ~~summary~~ reports referred to in paragraph 1 ~~on~~ **in** the IT platform referred to in Article 27 and make the clinical assessment reports available to other Member States through that IT platform ***to facilitate the exchange of information between Member States.***

Article 22

General Procedural Rules

1. The Commission shall adopt implementing acts concerning procedural rules for:
 - (i) ensuring that **Coordination Group and sub-groups** ~~health technology authorities and bodies~~ carry out joint clinical assessments in an independent and transparent manner, free from conflicts of interest;
 - (ii) the mechanisms for the interaction between **Coordination Group and sub-groups** ~~health technology bodies~~ and health technology developers during joint clinical assessments;
 - (iii) the consultation of stakeholders in **joint** clinical assessments **at Union level**.

2. Implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 30(2).

Article 23

Contents of Submission and Report Documents and Rules for Selecting Stakeholders

The Coordination Group shall establish:

- (a) the format and templates of:
 - (i) dossiers for information, data and evidence to be provided by health technology developers for joint clinical assessments;
 - (ii) joint clinical assessment reports;
 - (iii) summary joint clinical assessment reports.
- (b) the rules for determining **and consulting** the stakeholders ~~to be consulted~~ for the purposes of Section 1 of Chapter II and of this Chapter.

Chapter IV

Support Framework

Article 24

Union Funding

1. The financing of the work of the Coordination Group and its sub-groups and activities in support of that work involving its cooperation with the Commission, with the European Medicines Agency, the Medical Device Coordination Group, expert panels and with the stakeholder network referred to in Article 26 shall be ensured by the Union. The Union's financial assistance to the activities under this Regulation shall be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.

2. The funding referred to in paragraph 1 shall include funding for the participation of Member States' designated members of the Coordination Group and of the subgroups in support of the work on joint clinical assessments, joint scientific consultations, including the development of methodological guidance, guidelines and the identification of emerging health technologies. Assessors and co-assessors shall be entitled to a special allowance compensating them for their work on joint clinical assessments and joint scientific consultations in accordance with internal Commission provisions.

Article 25

Commission Support for the Coordination Group

The Commission shall support the work of the Coordination Group and act as its secretariat. In particular the Commission shall:

- (a) host on its premises the meetings of the Coordination Group and of its subgroups;
- (b) decide on conflict of interest in accordance with the rules of procedure of the Coordination Group;
- (c) request the dossier from the health technology developer according to Article 6b;
- (d) supervise procedures for joint clinical assessments and inform the Coordination Group about possible breaches;
- (e) provide administrative, technical and IT support;
- (f) set up and maintain the IT platform established pursuant to Article 27;
- (g) publish the information and documents on the IT platform according to Article 27;
- (h) facilitate exchange of information with the European Medicines Agency on the joint work referred to in this regulation related to medicinal products including the sharing of confidential information;
- (i) facilitate exchange of information with expert panels referred to in Article 106(1) of Regulation (EU) 2017/745 and the Medical Devices Coordination Group established pursuant to Article 103 of Regulation (EU) 2017/745 on the joint work referred to in this Regulation related to medical devices including the sharing of confidential information.

Article 26

Stakeholder Network

1. The Commission shall establish a stakeholder network. The stakeholder network shall support the work of the Coordination Group or its subgroups upon request.
2. The stakeholder network shall be established through an open call for applications and consist of all eligible stakeholder organisations based on eligibility criteria established by the Coordination Group. The criteria shall be included in the open call for applications.
3. Organisations applying to become part of the stakeholder network shall declare their membership and sources of funding.
4. The list of stakeholder organisations included in the stakeholder network and the declarations of those organisations on sources of funding shall be made publicly available.
5. The Coordination Group shall meet with the stakeholder network at least once per year in order to:
 - (a) update stakeholders on the work of the Group;
 - (b) provide for an exchange of information.
6. The Coordination Group may invite members of the stakeholder network to attend its meetings as observers.

Article 27

IT Platform

1. The Commission shall set up and maintain an IT platform consisting of:
 - (a) a publicly accessible webpage;
 - (b) a secure intranet for the exchange of information between members of the Coordination Group and its sub-groups;
 - (c) a secure system for the exchange of information between the Coordination Group and its sub-groups with health technology developers and experts participating in the joint work referred to in this Regulation, as well as with the European Medicines Agency and the Medical Devices Coordination Group.

2. The Commission shall ensure appropriate levels of access to the information contained in the IT platform for Member State bodies, members of the stakeholder network, and the general public.

3. The publicly accessible webpage shall contain, in particular:
 - (a) a list of the members of the Coordination Group and their appointed representatives, together with their declarations of conflict of interest after the finalisation of the joint work;
 - (b) a list of the members of the sub-groups and their appointed representatives, together with their declarations of conflict of interest, after the finalisation of the joint work;
 - (c) the rules of procedure of the Coordination Group;
 - (d) all documentation according to Articles 6a(1), 6.b(2) and (5) and 6c(1) at the time the report is published, according to Article 6b (7) in case the joint clinical assessment was discontinued, and according to Articles 11, 22 and 23;
 - (e) meeting agendas and summary minutes of the Coordination Group's meetings;
 - (f) eligibility criteria for stakeholders;
 - (g) the annual work programme and annual reports;

- (h) information on planned, on-going, and completed joint clinical assessments, including updates according to Article 9;
- (i) the joint clinical assessment reports together with all comments received during their preparation;
- (j) Member States' national clinical assessment reports referred to in Article 8(2) and Article 21;
- (k) anonymised, aggregated, non-confidential summary information on joint scientific consultations;
- (l) studies on the identification of emerging health technologies;
- (m) anonymised, aggregated, non-confidential information from the emerging health technology reports referred to in Article 18;
- (n) results of the voluntary cooperation between Member States;
- (o) where a joint clinical assessment is discontinued, the statement pursuant to Article 6b(6); including the list of information, data, analyses and other evidence that were not submitted by the health technology developer;
- (p) the procedural review of the Commission according to Article 6d(5⁴);
- (q) standard operating procedures and guidance regarding quality assurance pursuant Article 3a.

⁴ Reference corrected - by mistake the previous reference was to para 4.

Article 28

Evaluation and Monitoring

1. No later than three years after the date of application the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation. The report shall focus on reviewing:
 - (a) the added value *for Member States* of the joint work carried out pursuant to Chapter II and, in particular, whether the health technologies subject to joint clinical assessments in accordance with Article 5 and the quality of those joint clinical assessments correspond to the needs of Member States;
 - (b) a progressive expansion of the scope;
 - (c) the non-duplication of the request of information, data, analyses and other evidence for joint clinical assessment in terms of reducing administrative burden for Member States and health technology developers;
 - (d) the functioning of the support framework referred to in this Chapter and, in particular, whether there is a need to introduce a fee-paying mechanism through which health technology developers would also contribute to the financing of the joint scientific consultations;
 - (e) the need for a strengthened role of the European Commission, in particular regarding administrative decisions on joint clinical assessments.

2. No later than ~~two~~ **four** years after the date *of application* ~~set in Article 5(1)(d)~~ the Member States shall report to the Commission on the implementation of this Regulation and, in particular, on the consideration of joint work pursuant to Chapter II in their national health technology assessment processes *and the workload of the Coordination Group*.

3. In the preparation of that report, the Commission shall consult the Coordination Group and use:
 - (a) the information provided by Member States in accordance with paragraph 2;
 - (b) the reports on emerging health technologies prepared in accordance with Article 18.
4. The Commission shall, if appropriate, present a legislative proposal based on that report in order to update the provisions set out in this Regulation.

Chapter V

Final Provisions

Article 30

Committee Procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 32

Preparation of Implementing Acts

1. The Commission shall adopt the implementing acts referred to in Articles 11, 16 and 22 at the latest by the date of application of this Regulation.

2. *When preparing an implementing act pursuant to Article 5(2) or Article 6a(3) the Commission shall gather all necessary expertise, including through consultation of the Coordination Group. Implementing acts adopted pursuant to Article 5(2) shall in particular seek to achieve a manageable workload for the Coordination Group. During the preparation of implementing acts referred to in this paragraph, the Commission shall furthermore act in accordance with the principles and procedures laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

3.2. When preparing those implementing acts, the Commission shall take into account the distinctive characteristics of the medicinal product and medical device sectors.

Article 34a

Penalties

Member States shall lay down the rules on penalties applicable to health technology developers for infringement of the provisions of this Regulation, including their failure to provide information, data, analyses and other evidence in accordance with Articles 6, 6a, 6b and 6c and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, and dissuasive. The Member States shall notify the Commission of those rules and of those measures by [XX/XX/XXXX, date to be decided] and shall notify the Commission, without delay, of any subsequent amendment affecting them.

Article 35

Amendment of Directive 2011/24/EU

1. Article 15 of Directive 2011/24/EU is deleted.
2. References to the deleted Article shall be construed as references to this Regulation.

Article 36

Entry into Force and Date of Application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [insert date 3 years after date of entry into force].

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

DOSSIER SPECIFICATIONS FOR MEDICINAL PRODUCTS

The dossier referred to in Article 6a(2) of this Regulation shall for medicinal products include the following information:

- 1. The dossier for medicinal products shall generally include:*
 - (a) the clinical safety and efficacy data included in the submission file to the European Medicines Agency, including the corresponding raw data;*
 - (b) all up-to-date published and unpublished information, data, analyses and other evidence as well as study reports and study protocols and analysis plans from studies with the medicinal product for which the health technology developer was a sponsor and all available information on ongoing or discontinued studies with the medicinal product for which the health technology developer is a sponsor or otherwise financially involved, and corresponding information about studies by third parties if available, relevant to the assessment scope set in accordance with paragraph 6 of Article 6, including the clinical study reports and clinical study protocols if available to the health technology developer; HTA reports on the health technology subject to the joint clinical assessment;*
 - (c) information on study registries;*
 - (d) if a health technology has been subject to a Joint Scientific Consultation, the developer shall explain any deviation from the recommended evidence;*

2. *More specifically the dossier for medicinal products shall include:*
- (a) characterisation of the medical condition to be treated including the target patient population;*
 - (b) characterisation of the medicinal product under assessment;*
 - (c) research question of the dossier, pursuant to Article 6(6) elaborated in the submission dossier; reflecting the assessment scope;*
 - (d) description of methods used by the health technology developer in the development of the content of the dossier, including e.g. methods for information retrieval, data analysis and data synthesis; based on specifications of general requirements for the methods to be used by the health technology developer in the respective template and guidelines;*
 - (e) results of information retrieval, including results of individual search and study selection steps and relevant study pool(s);*
 - (f) characteristics of included studies, including study design and methods of individual studies, characteristics of patient populations of included studies and analyses;*
 - (g) results on effectiveness and safety of the intervention under assessment and the comparator by presentation of each relevant individual study and data presentation by parameters pursuant to Article 6 (6) defined in the assessment scope, including results for all available endpoints as specified in the assessment scope from all relevant available studies and analyses; pooled analyses and indirect treatment comparisons as required;*
 - (h) underlying documentation (provided in annexes and appendices); documentation of information retrieval, presentation of specific details on individual studies (e.g. detailed methods); documentation of individual studies (clinical study reports); documentation of analyses performed for the submission dossier (e.g. reports on indirect comparisons); documentation from the regulatory submission; full texts of references literature.*
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DOSSIER SPECIFICATIONS FOR MEDICAL DEVICES

1. *The dossier referred to in Article 6a(2) of this Regulation shall for medical devices at least include:*
 - (a) *the clinical evaluation and assessment report;*
 - (b) *the manufacturer's clinical evaluation documentation submitted to the notified body pursuant to Annex II Section 6.1 (c) and (d) of Regulation (EU) 2017/745;*
 - (c) *the scientific opinion provided by the relevant expert panels in the framework of the clinical evaluation consultation procedure.*

2. *The dossier referred to in Article 6a(2) of this Regulation shall for in vitro diagnostic medical devices at least include:*
 - (a) *the performance evaluation report of the manufacturer;*
 - (b) *the manufacturer's performance evaluation documentation, cf. Annex II Section 6.2 of Regulation (EU) 2017/746;*
 - (c) *the scientific opinion provided by the relevant expert panels in the framework of the performance evaluation consultation procedure;*
 - (d) *the report of the EU reference laboratory.*

