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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	7203/18 - COM(2018) 131 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European Labour Authority

Delegations will find attached the provisional agreement on the above proposal, subject to the agreement by the Committee of Permanent Representatives, with a view to reaching a first-reading agreement with the European Parliament.

Proposal for a

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

of ...

establishing a European Labour Authority

(text with relevance for the EEA and for Switzerland)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 46 and Article 48 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

Whereas:

- (1) The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market of the Union, enshrined in the Treaty on the Functioning of the European Union (TFEU).
- (2) Pursuant to Article 3 of the Treaty of the European Union (TEU), the Union is to work for a highly competitive social market economy, aiming at full employment and social progress, and to promote social justice and protection, equality between women and men, solidarity between generations and combatting discrimination. In accordance with Article 9 TFEU, the Union, in defining and implementing its policies and activities, is to take into account requirements linked to, inter alia, the promotion of a high level of employment, the guarantee of an adequate social protection, the fight against social exclusion, and the promotion of a high level of education, training and the protection of human health.
- (3) The European Pillar of Social Rights was jointly proclaimed by the European Parliament, the Council and the Commission at the Social Summit in Gothenburg on 17 November 2017. That Summit recalled the need to put people first, in order to further develop the social dimension of the Union, and to promote convergence through efforts at all levels, as confirmed during the conclusions of the European Council of 14 December 2017.

- (4) As outlined in their Joint Declaration on the legislative priorities for 2018-2019, the European Parliament, the Council and the Commission are committed to taking action to reinforce the social dimension of the Union, by working on improving the coordination of social security systems³, by protecting workers from health risks in the workplace⁴, by ensuring fair treatment for all in the Union labour market through modernised rules on posting of workers⁵, and by further improving cross-border enforcement of Union law.
- (4a) It is crucial to improve the cross-border enforcement of Union law in the area of labour mobility and to tackle abuse in order to protect the rights of mobile workers and to foster fair competition between companies, in particular small and medium-sized enterprises (SMEs).
- (5) A European Labour Authority (the ‘Authority’) should be established in order to help strengthen fairness and trust in the Single Market. The Authority’s objective should be clearly defined with a strong focus on a limited number of tasks so that the means available are used as efficiently as possible in areas where the Authority can provide the greatest added value. To that effect, the Authority should assist the Member States and the Commission in strengthening access to information for individuals and employers about their rights and obligations in cross-border labour mobility situations as well as access to relevant services, support compliance and cooperation between the Member States in the consistent, efficient and effective application and enforcement of the Union law related to labour mobility across the Union and the coordination of social security systems within the Union, and mediate and facilitate a solution in case of disputes.

³ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (COM (2016)0815 final).

⁴ Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (COM(2017)0011 final).

⁵ Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (COM (2016)0128 final).

- (5a) Improving access to information by individuals and employers, in particular SMEs, about their rights and obligations in the areas of labour mobility, free movement of services and social security coordination is crucial in order to tap the full potential of the internal market.
- (6) The Authority should perform its activities in the areas of labour mobility across the Union and social security coordination, including free movement of workers, posting of workers and highly mobile services. It should also enhance cooperation between Member States in tackling undeclared work, and in situations where the proper functioning of the internal market is at risk because of, inter alia, letter box entities, bogus self-employment, without prejudice to the competences of Member States to decide on the measures taken at national level. In cases where the Authority, in the course of the performance of its activities, becomes aware of suspected irregularities in areas of Union law, such as violations of working conditions, health and safety rules, labour exploitation, it should be able to report them and cooperate on these matters with the national authorities of the Member States concerned, and where appropriate, with the Commission and other competent Union bodies.
- (6a) The scope of activities of the Authority should cover specific Union acts listed in this Regulation, including future amendments to those Union acts. This list should be extended in case new Union acts in the field of labour mobility across the Union are adopted.
- (6b) The Authority should proactively contribute to national and Union efforts while carrying out its tasks in full cooperation with Union institutions, bodies and Member States, avoiding any duplication of work, promoting synergy and complementarity.
- (7) The Authority should contribute to facilitating the application and enforcement of Union law within its scope, and to supporting the enforcement of those provisions implemented through universally applicable collective agreements in line with the practices of Member States. To that end, the Authority should set up a single European website for the purpose of accessing all Union and national websites established in accordance with Directive 2014/67/EU and Directive 2014/54/EU. Without prejudice to the tasks and activities of the Administrative Commission for the Coordination of Social Security Systems, it should also help the coordination of social security systems.

- (8) In certain instances, sector-specific Union law has been adopted in order to respond to specific needs in the concerned sector, such as the area of international transport including in the areas of road, rail, maritime transport, inland waterways and aviation. Within its scope, the Authority should also deal with the cross-border labour mobility and social security aspects of the application of such sector-specific Union law. The scope of the Authority's activities, in particular the question whether its activities should be extended to additional Union acts covering sector-specific needs in the area of international transport, should be subject to periodic evaluation and, if appropriate, review.
- (9) The individuals covered by the activities of the Authority should be persons who are subject to the Union law within the scope of this Regulation, including workers, self-employed persons, jobseekers; this should cover both Union citizens and third-country nationals who are legally resident in the Union, such as posted workers, intra-corporate transferees or long-term residents, as well as their family members, as provided for by the relevant Union law regulating their mobility within the Union..
- (10) The establishment of the Authority should not create new rights and obligations for individuals or employers, including economic operators or non-profit organisations, as the activities of the Authority should cover them to the extent to which they are covered by the Union law within the scope of this Regulation. Increased cooperation in the area of enforcement should not place an excessive administrative burden on mobile workers or employers, in particular SMEs, or discourage labour mobility.

- (11) To ensure that individuals and employers can benefit from a fair and effective internal market, the Authority should support Member States in promoting opportunities to be mobile or provide services and recruit anywhere within the Union including opportunities for access to cross-border mobility services, such as the cross-border matching of jobs, traineeships and apprenticeships; and mobility schemes such as 'Your first EURES job' or 'ErasmusPRO'. The Authority should also contribute to improving transparency of information, including on rights and obligations stemming from Union law, and access to services to individuals and employers, in cooperation with other Union information services, such as Your Europe Advice, and taking full advantage and ensuring consistency with the Your Europe portal, which will form the backbone of the single digital gateway established by Regulation .../...⁶.
- (12) For these purposes, the Authority should cooperate with other relevant Union initiatives and networks, in particular the European Network of Public Employment Services (PES)⁷, the European Enterprise Network, the Border Focal Point and SOLVIT⁸, and the Senior Labour Inspectors' Committee (SLIC), as well as with relevant national services such as the bodies to promote equal treatment and to support Union workers and members of their family, designated by Member States under Directive 2014/54/EU. The Authority should replace the Commission in managing the European Coordination Office of the European network of employment services ('EURES') established pursuant to Regulation (EU) No 2016/589, including the definition of user needs and business requirements for the effectiveness of the EURES portal and related IT services, but excluding the IT provision, and the operation and development of the IT infrastructure, which will continue to be ensured by the Commission.

⁶ OJ: please add references to Single Digital Gateway – COM(2017)256 Regulation [*Single Digital Gateway* – COM(2017)0256]

⁷ Decision No 573/2014/EU of the European Parliament and of the Council of 15 May 2014 on enhanced cooperation between Public Employment Services (PES) (OJ L 159, 28.5.2014, p. 32).

⁸ Commission Recommendation of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2011, p. 10).

- (13) In view of the fair, simple and effective application of Union law, the Authority should support cooperation and timely exchange of information between Member States. Together with other staff, National Liaison Officers working within the Authority should support Member States' compliance with cooperation obligations, speed up exchanges between them through procedures dedicated to reducing delays, and ensure links with other national liaison offices, bodies, and contact points established under Union law. The Authority should encourage the use of innovative approaches to effective and efficient cross-border cooperation, including electronic data exchange tools such as the Electronic Exchange of Social Security Information (EESSI) system and the Internal Market Information (IMI) system, and should contribute to further digitalising procedures and improving IT tools used for message exchange between national authorities.
- (14) To increase Member States' capacity to ensure protection of persons exercising their right to free movement and tackle irregularities with a cross-border dimension in relation to Union law within its scope, the Authority should support the national authorities in carrying out concerted and joint inspections, including by facilitating the implementation of the inspections in accordance with Article 10 of Directive 2014/67/EU. Those inspections should take place at the request of Member States or upon their agreement to the Authority's suggestion. The Authority should provide strategic, logistical, and technical support to Member States participating in the concerted or joint inspections in full respect of confidentiality requirements. Inspections should be carried out in agreement with the Member States concerned and take place fully within the legal framework of national law and practice of the Member States in which the inspections take place. Member States should follow up on the outcomes of the concerted and joint inspections according to national law and practice.
- (14a) Concerted and joint inspections should not replace nor undermine national competences. National authorities should also be fully associated in the process and have full authority. Where trade unions are themselves in charge of inspections at national level, joint and concerted inspections should take place following the agreement of and in cooperation with relevant social partner organisations.

- (15) In order to keep track of emerging trends, challenges, or loopholes in the areas of labour mobility and social security coordination, the Authority should develop, in cooperation with Member States and social partners, where appropriate, an analytical and risk assessment capacity. This should involve carrying out labour market analyses and studies, as well as peer reviews. The Authority should monitor potential imbalances in terms of skills and cross-border labour flows, including their possible impact on territorial cohesion. The Authority should also support the risk assessment referred to in Article 10 of Directive 2014/67/EU. The Authority should ensure synergies and complementarity with other Union Agencies or services or networks. This should include seeking input from SOLVIT and similar services on sector-specific challenges and recurring problems concerning labour mobility within the scope of this regulation. The Authority should also facilitate and streamline data collection activities provided for by the relevant Union laws within its scope. This does not entail the creation of new reporting obligations for Member States.
- (16) To strengthen the capacity of national authorities in the areas of labour mobility and social security coordination and improve consistency in the application of Union law within its scope, the Authority should provide operational assistance to national authorities, including by developing practical guidelines, establishing training and peer learning programmes, including for labour inspectorates to address challenges such as bogus self-employment and abuses of posting, promoting mutual assistance projects, facilitating staff exchanges such as those referred to in Article 8 of Directive 2014/67/EU, and supporting Member States in organising awareness-raising campaigns informing individuals and employers of their rights and obligations. The Authority should promote the exchange, dissemination and uptake of good practices and of knowledge and mutual understanding of different national systems and practices.

- (16a new) The Authority should develop synergies between its task to ensure fair labour mobility and tackling undeclared work. In the context of this regulation ‘tackling’, in relation to undeclared work, means preventing, deterring and combating undeclared work as well as promoting the declaration of undeclared work. Building on the knowledge and the working methods of the European Platform to enhance cooperation in tackling undeclared work, the Authority should set up, with the involvement of the Social Partners, a permanent working group called the European Platform to enhance cooperation in tackling undeclared work (The Platform). The Authority should ensure a smooth transition of the existing activities to the new working group.
- (17) The Authority should perform a mediation role. Member States should be able to refer disputed individual cases to the Authority for mediation after having failed to solve the cases by direct contact and dialogue between them. Mediation should only deal with disputes between Member States, while individuals and employers facing difficulties with exercising their Union rights should continue to have at their disposal the national and Union services dedicated to dealing with such cases, such as the SOLVIT network to which the Authority should refer such cases. The SOLVIT network should also be able to refer to the Authority for its consideration cases in which the problem cannot be solved due to differences between national administrations. The Authority should perform its mediation role without prejudice to the competences of the European Court of Justice.
- (19) The European Interoperability Framework (EIF) offers principles and recommendations on how to improve governance of interoperability activities and public services delivery, establish cross-organisational and cross-border relationships, streamline processes supporting end-to-end digital exchanges, and ensure that both existing and new legislation support interoperability principles. The European Interoperability Reference Architecture (EIRA) is a generic structure, comprising principles and guidelines applying to the implementation of interoperability solutions⁹. Both the EIF and the EIRA should guide and support the Authority when considering interoperability matters.

⁹ Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA² programme) as a means for modernising the public sector (OJ L 318, 4.12.2015, p. 1).

- (19a) The Authority should aim at providing better access to online information and services for Union and national stakeholders and facilitate the exchange of information between them. Therefore, the use of digital tools should be encouraged by the Authority, whenever possible. Besides IT systems and websites, digital tools such as online platforms and databases play an increasingly central role in the cross-border labour mobility market. Thus, such tools are useful to provide easy access to relevant online information and facilitate exchange of information for Union and national stakeholders regarding their cross-border activities.
- (19b) The Authority should strive for websites and mobile applications established for the implementation of the tasks laid down in this Regulation to be in line with relevant accessibility requirements of the Union. Directive 2016/2102/EU¹⁰ requires Member States to ensure that their public bodies' websites are accessible in accordance with the principles of perceivability, operability, understandability and robustness and that they comply with the requirements of that Directive. As this directive does not apply to websites and mobile applications of Union institutions, bodies, offices and agencies, the should endeavour to comply with the principles set out therein.
- (20) The Authority should be governed and operated in line with the principles of the Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.
- (X) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men must be ensured in all areas, including employment, work and pay. All parties should aim to achieve a balanced representation between women and men on the Management Board and the Stakeholder Group. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together.

¹⁰ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies, (OJ L 327, 2.12.2016, p. 1).

- (21) The Member States and the Commission should be represented on a Management Board, in order to ensure the effective functioning of the Authority. The European Parliament as well as cross-industry social partners at Union level, equally representing trade unions and employers' organisations with adequate representation of SMEs, may also nominate representatives to the Management Board. The composition of the Management Board, including the selection of its Chair and Deputy-Chair, should respect the principles of gender balance, experience and qualification. In view of the effective and efficient functioning of the Authority, the Management Board, in particular, should adopt an annual work programme, carry out its functions relating to the Authority's budget, adopt the financial rules applicable to the Authority, appoint an Executive Director, and establish procedures for taking decisions relating to the operational tasks of the Authority by the Executive Director. Representatives from countries other than Union Member States, which are applying the Union rules within the scope of the Authority, may participate in the meetings of the Management Board as observers.
- (21a) In exceptional cases, where it is necessary to maintain the maximum level of confidentiality, the independent expert appointed by the European Parliament and the representatives of cross-industry social partners at union level should not participate in deliberations of the Management Board. Such provision should be clearly specified in the rules of procedure of the Management Board and limited to sensitive information regarding individual cases, to ensure so that the effective participation of the expert and the representatives in the work of the Management Board is not unduly limited.
- (21b) An Executive Director should be appointed to ensure the overall administrative management of the Authority and the implementation of the tasks assigned to the Authority. Other staff members may deputise for the Executive Director in cases where this is deemed necessary in order to ensure the day-to-day management of the Authority, in line with the internal rules of the Authority, without creating additional managerial positions.

- (22) Without prejudice to the powers of the Commission, the Management Board and the Executive Director should be independent in the performance of their duties and act in the public interest.
- (23) The Authority should directly rely on the expertise of relevant stakeholders in the areas under its scope through a dedicated Stakeholder Group. The members should be representatives of Union-level social partners, including recognised Union sectoral social partners representing sectors particularly concerned by labour mobility issues. The Stakeholder Group should receive prior briefing and be able to submit their opinions to the Authority, upon request or on their own initiative. In carrying out its activities, the Stakeholder Group will take due account of the opinions and draw on the expertise of the Advisory Committee for the Coordination of Social Security Systems established by Regulation (EC) No 883/2004 and the Advisory Committee on the Free Movement of Workers established pursuant to Regulation (EU) No 492/2011.
- (24) To guarantee its full autonomy and independence, the Authority should be granted an autonomous budget, with revenue coming from the general budget of the Union, any voluntary financial contribution from the Member States and any contribution from third countries participating in the work of the Authority. In exceptional and duly justified cases it should also be in the position to receive delegation agreements or ad hoc grants, and to charge for publications and any service provided by the Authority.
- (X) The translation services required for the Authority's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). The Authority's should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly the Authority's needs and priorities, and create transparent and objective procedures for the translation process.

- (25) Processing of personal data carried out in the context of this Regulation should be conducted in accordance with Regulation (EU) No 2016/679 of the European Parliament and of the Council¹¹, or Regulation (EC) No 45/2001 of the European Parliament and of the Council¹², whichever is applicable. This includes putting in place appropriate technical and organisational measures to comply with the obligations imposed by these Regulations, in particular measures relating to the lawfulness of the processing, the security of the processing activities, the provision of information and the rights of data subjects.
- (26) In order to ensure the transparent operation of the Authority, Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹³ should apply to the Authority. The activities of the Authority should be subject to the scrutiny of the European Ombudsman in accordance with Article 228 TFEU.
- (27) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁴ should apply to the Authority, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the OLAF.
- (28) The Authority's host Member State should provide the best possible conditions to ensure the proper functioning of the Authority.

¹¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119 of 4.5.2016, p. 1).

¹² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L8, 12.1.2001, p. 1), currently under revision by COM(2017)0008 final.

¹³ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

¹⁴ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

- (29) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Union (Staff Regulations of Officials) and the Conditions of Employment of Other Servants of the European Union (Conditions of Employment), laid down in Regulation (EEC, Euratom, ECSC) No 259/68 (together referred to as the ‘Staff Regulations’), should apply to the staff and to the Executive Director of the Authority, including the rules of professional secrecy or other equivalent duties of confidentiality.
- (30) Within the framework of their respective competences, the Authority should cooperate with other agencies of the Union, in particular those established in the area of employment and social policy, building on their expertise and maximising synergies: the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Centre for the Development of Vocational Training (Cedefop), the European Agency for Safety and Health at Work (EU-OSHA), and the European Training Foundation (ETF), as well as, as regards the fight against organised crime and trafficking in human beings, with the European Union Agency for Law Enforcement Cooperation (Europol) and European Union Agency for Criminal Justice Cooperation (Eurojust). Such cooperation should ensure coordination, promote synergies and avoid duplication in their activities.
- (31) In order to bring an operational dimension to the activities of existing bodies in the areas of within its scope the Authority should take over the performance of tasks carried out by the Technical Committee on the Free Movement of Workers established pursuant to Regulation (EU) No 492/2011, the Committee of Experts on Posting of Workers set up by Commission Decision 2009/17/EC¹⁵, including the exchange of information on administrative cooperation, the assistance in questions on implementation as well as cross-border enforcement, and the European Platform to enhance cooperation in tackling undeclared work set up by Decision (EU) 2016/344 of the European Parliament and the Council¹⁶. With the Authority becoming operational, those bodies should cease to exist; the Management Board may decide to set up dedicated working groups or expert panels.

¹⁵ Commission Decision 2009/17/EC of 19 December 2008 setting up the Committee of Experts on Posting of Workers (OJ L 8, 13.1.2009, p. 26).

¹⁶ Decision (EU) 2016/344 of the European Parliament and of the Council of 9 March 2016 on establishing a European Platform to enhance cooperation in tackling undeclared work (OJ L 65, 11.3.2016, p. 12).

- (32) Mediation shall be without prejudice to the competences of the Administrative Commission for the Coordination of Social Security Systems established in Regulation (EC) No 883/2004 ('the Administrative Commission') including all decisions it takes. The two bodies should cooperate closely with the aim to achieve synergies and avoid overlap.
- (33) The Advisory Committee for the Coordination of Social Security Systems established by Regulation (EC) No 883/2004 and the Advisory Committee on the Free Movement of Workers established pursuant to Regulation (EU) No 492/2011 provide a forum for consultation of social partners and government representatives at national level. The Authority should contribute to their work and may participate in their meetings.
- (34) In order to reflect this new institutional set-up, Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 should be amended, and Decision (EU) 2016/344 should be repealed once the Authority is operational.
- (35) The Authority should respect for the diversity of national industrial relations systems as well as the autonomy of social partners as explicitly recognised by the TFEU. Taking part in the activities of the Authority is without prejudice to the Member States' competences, obligations and responsibilities under, inter alia, relevant and applicable International Labour Organization (ILO) conventions, such as Convention No 81 concerning Labour Inspection in Industry and Commerce, and to the Member States' powers to regulate, mediate or monitor national industrial relations, in particular on the exercise of the right to collective bargaining and to take collective action.
- (36) Since the objective of this Regulation to contribute to strengthening fairness in the internal market within its scope cannot be sufficiently achieved by the Member States acting in an uncoordinated manner, but can rather, by reason of the cross-border nature of those activities and the need for increased cooperation between Member States, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(37) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 TEU,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Subject matter and scope

1. This Regulation establishes the European Labour Authority ('the Authority').
2. The Authority shall assist Member States and the Commission in their effective application and enforcement of Union law related to labour mobility across the Union and the coordination of social security systems within the Union. The scope of activities of the Authority shall cover the Union acts listed in paragraph 3, including all decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.
- 2a. This Regulation shall not in any way affect the exercise of fundamental rights as recognised in the Member States and at Union level, including the right or freedom to strike or to take other action covered by the specific industrial relations systems in Member States, in accordance with national law and/or practice. Nor does it affect the right to negotiate, to conclude and enforce collective agreements, or to take collective action in accordance with national law and/or practice.

3. The scope of activities of the Authority shall cover the following Union acts, including all future amendments to these acts:
- (a) Directive (EC) 96/71 concerning the posting of workers in the framework of the provision of services¹⁷;
 - (b) Directive (EU) 2014/67 on the enforcement of Directive (EC) 96/71 concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ("the IMI regulation")¹⁸;

¹⁷ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1) [...].

¹⁸ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.05.2014, p. 11).

- (c) Regulation (EC) No 883/2004 on the coordination of social security systems¹⁹ and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, including the provisions of Regulation (EEC) No 1408/71²⁰ and (EEC) No 574/72²¹ as far as they are still applicable²², Regulation (EU) 1231/2010²³ and Regulation (EC) 859/2003 extending the first two Regulations to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality;
- (d) Regulation (EU) 492/2011 on freedom of movement for workers within the Union²⁴;
- (e) Directive (EU) 2014/54 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers²⁵;

¹⁹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, (OJ L 166, 30.4.2004, p.1, corrigendum OJ L 200, 7.6.2004, p. 1) [...].

²⁰ Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 149, 5.7.1971 p. 2).

²¹ Council Regulation (EC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons, and to their families moving within the Community (OJ L 74, 27.3.1972, p. 1).

²² Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, (OJ L 284, 30.10.2009, p. 1) [...].

²³ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1).

²⁴ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

²⁵ Directive 2014/54/EU of the European Parliament and the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (OJ L 128, 30.4.2014, p. 8).

- (f) Regulation (EU) 2016/589 on a European Network of employment services (EURES), worker's access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) 1296/2013²⁶;
- (g) Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85²⁷;
- (h) Directive 2006/22/EC on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC²⁸;
- (i) Regulation (EC) 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC²⁹.

4. The scope of activities of the Authority shall extend to the provisions of this Regulation related to the cooperation between Member States in order to tackle undeclared work.

²⁶ Regulation (EU) 2016/589 of the European Parliament and the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 (OJ L 107, 22.04.2016, p. 1).

²⁷ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

²⁸ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35) [...].

²⁹ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

5. This Regulation shall respect the competences of Member States [as regards the application and enforcement of Union law listed in paragraph 3].

It shall not affect the rights and obligations of individuals and employers granted by Union law and national law, nor the rights and obligations of national authorities deriving thereof, as well as the autonomy of Social partners as recognized by the TFEU.

This Regulation shall be without prejudice to existing bilateral agreements and administrative cooperation arrangements between Member States, in particular those related to concerted and joint inspections.

Article 2

Objectives

The objective of the Authority shall be to contribute to ensuring fair labour mobility across the Union and assist Member States and the Commission in the coordination of social security systems within the Union. To this end, and within the scope pursuant to Article 1, the Authority shall:

- (a) facilitate access to information on rights and obligations regarding labour mobility across the Union as well as to relevant services;
- (b) facilitate and enhance cooperation between Member States in the enforcement of relevant Union law across the Union, including facilitating concerted and joint inspections;
- (c) mediate and facilitate a solution in cases of cross-border disputes between Member States.
- (e) support cooperation between Member States in tackling undeclared work.

Article 3
Legal status

1. The Authority shall be a body of the Union with legal personality.
2. In each of the Member States, the Authority shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.

CHAPTER II

TASKS OF THE AUTHORITY

Article 5
Tasks of the Authority

In order to achieve its objectives, the Authority shall carry out the following tasks:

- (a) facilitate access to information in accordance with Articles 6 and 7;
- (b) facilitate cooperation and the exchange of information between Member States with a view to the consistent, efficient and effective application and enforcement of relevant Union law, in accordance with Article 8;
- (c) coordinate and support concerted and joint inspections, in accordance with Articles 9 and 10;
- (d) carry out analyses and risk assessments on issues of cross-border labour mobility, in accordance with Article 11;
- (e) support Member States with capacity-building regarding the effective application and enforcement of relevant Union law, in accordance with Article 12;
- (ea) support Member States in tackling undeclared work, in accordance with Article 12a(new);

- (f) mediate in disputes between Member States on the application of relevant Union law, in accordance with Article 13;

Article 6

Information on labour mobility

The Authority shall improve the availability, quality and accessibility of information of a general nature offered to individuals, employers and social partner organisations regarding rights and obligations deriving from the Union acts listed in Article 1(3) to facilitate labour mobility across the Union. To that end, the Authority shall:

- (a) contribute to the provision of relevant information on the rights and obligations of individuals in cross-border labour mobility situations, including through a single Union-wide website in all official languages of the Union acting as a single portal for accessing information sources and services at Union and national level and set up in line with the regulation [include reference for regulation on Single Digital Gateway];
- (b) support Member States in the application of Regulation (EU) 589/2016 on EURES;
- (d) support Member States in complying with the obligations on the dissemination of and access to information relating to the free movement of workers, in particular as laid down in Article 6 of Directive 2014/54/EU, in Article 22 of Regulation 2016/589/EU, in Article 76(4) and (5) of Regulation 2004/883/EU and to the posting of workers as laid down in Article 5 of Directive 2014/67/EU, including by means of reference to national information sources such as the single official national website;
- (e) support Member States in improving the accuracy, completeness and user-friendliness of relevant national information services and sources, in accordance with the quality criteria laid down in Regulation .../...³⁰;
- (f) support Member States in streamlining the provision of information and services to individuals and employers pertaining to cross-border mobility on a voluntary basis.

³⁰ OJ to add reference to Single Digital Gateway – COM(2017)0256

- (fa) facilitate cooperation between the competent national authorities designated in accordance with Directive 2014/54/EU to provide information, guidance and assistance to individuals and employers in the area of labour mobility within the internal market.

Article 7

Coordination of EURES

In order to support Member States in providing services to individuals and employers through EURES, such as cross-border matching of job, traineeship, and apprenticeship vacancies with CVs, and thus facilitating labour mobility across the Union, the Authority shall manage the EURES European Coordination Office.

The EURES European Coordination Office under the management of the Authority shall fulfil its responsibilities in accordance with Article 8 of Regulation (EU) 2016/589, except for the technical operation and development of the EURES portal and related IT services, which shall continue to be managed by the Commission. The Authority, under the responsibility of the Executive Director as set out in Article 23(4)(k), shall ensure that this activity fully complies with requirements of the applicable data protection legislation, including the requirement to appoint a Data Protection Officer, in accordance with Article 37.

Article 8

Cooperation and exchange of information between Member States

1. The Authority shall facilitate cooperation and acceleration of exchange of information between Member States and support their effective compliance with cooperation obligations, including on information exchange, as defined in Union law within the scope of the Authority's competences.

To that end, the Authority shall in particular:

- (a) upon request of Member States, support national authorities in identifying the relevant contact points of national authorities in other Member States;

- (b) upon request of Member States, facilitate the follow-up to requests and information exchanges between national authorities by providing logistical and technical support, including translation and interpretation services, and through exchanges on the status of cases;
 - (c) promote, share and contribute to disseminating best practices between Member States;
 - (d) upon request of one or more Member States, where relevant, facilitate and support cross-border enforcement procedures of penalties and fines, within the scope of this Regulation according to Article 1.;
 - (e) report to the Commission on a biannual basis about unresolved requests between Member States, and if agreed upon by all Member States concerned, refer those to mediation in accordance with Article 13.
- 1a. Upon request of Member States and in the course of fulfilling its tasks, the Authority shall provide information to support the Member State concerned in the effective application of the Union acts that fall within the Authority's competence.
3. The Authority shall promote the use of electronic tools and procedures for message exchange between national authorities, including the Internal Market Information (IMI) system.
4. The Authority shall encourage the use of innovative approaches to effective and efficient cross-border cooperation, and promote the potential use of electronic exchange mechanisms and databases between the Member States to facilitate the access to data in real time and detection of fraud, and may suggest possible improvements of the use of these mechanisms and databases. The Authority shall provide reports to the Commission with a view to the further development of electronic exchange mechanisms and databases.

Article 9

Coordination and support of concerted and joint inspections

1. At the request of one or more Member States, the Authority shall coordinate and support concerted or joint inspections in the areas under the scope of the Authority's competences. The Authority may also, on its own initiative, suggest to the authorities of the Member States concerned that they perform a concerted or joint inspection. Social partner organizations at national level may bring cases to the attention of the Authority.

For the purpose of this Regulation:

- (a) concerted inspections are inspections undertaken in two or more Member States simultaneously regarding related cases, with each national authority operating in its own territory, supported, where appropriate, by ELA staff;
- (b) joint inspections are inspections undertaken in a Member State with the participation of the national authorities of one or more other Member State(s) concerned, supported, where appropriate, by ELA staff.

1a.(new) The request may be submitted by one or more Member States. The Authority may also suggest to the authorities of the Member States concerned that they perform a concerted or joint inspection, subject to the agreement of the Member States concerned.

2. Pursuant to the principle of sincere cooperation, Member States shall endeavour to participate in concerted or joint inspections.

The organisation of a concerted or joint inspection shall be subject to the prior agreement of all participating Member States, and such agreement should be notified via their National Liaison Officers designated pursuant to Article 33.

In the event that one or more Member States decide not to participate in the concerted or joint inspection, the other national authorities shall only carry out the envisaged inspection in the participating Member States. Member States that did not agree to participate shall keep information about the envisaged inspection confidential.

3. The Authority shall determine and adopt the modalities to ensure appropriate follow-up where a Member State decides not to participate in a concerted or joint inspection.

In such cases, the Member State concerned shall inform without undue delay the Authority and the other Member States concerned in writing, including by electronic means, about the reasons of its decision and possibly about the measures it plans to take to resolve the case, as well as, once known, about the outcomes of such measures. The Authority may suggest that the Member State which did not participate in a concerted or joint inspection carries out its own inspection on a voluntary basis.

- 3a. Member States and the Authority shall keep information about envisaged inspections confidential with regard to third parties.

Article 10

Arrangements for concerted and joint inspections

1. An agreement for setting up a concerted inspection ("the concerted inspection agreement") or a joint inspection ('the joint inspection agreement') between the participating Member States and the Authority shall set out the terms and conditions for carrying out such an exercise, including the scope and purpose of the inspection and, if relevant, any arrangements on the participation of the staff of the Authority in the inspection. The concerted or joint inspection agreement may include provisions which enable concerted or joint inspections, once agreed and planned, to take place at short notice. The Authority shall establish a model agreement in accordance with Union law, as well as national law and practice.
2. Concerted and joint inspections shall be carried out in accordance with the national law and practice of the Member States in which the inspections take place. Their follow-up shall be carried out in compliance with the national laws and/or practice* of the Member States concerned.
- 2a. Concerted and joint inspections must take place in an operationally effective manner. To this effect, in the inspection agreement referred to in paragraph 1 Member States shall grant officials from another Member State participating in such inspections an appropriate role and status, in accordance with the national law and practice of the Member State where the inspection is carried out.

3. The Authority shall provide conceptual, logistical and technical support, and, where appropriate, legal expertise, if requested by the Member States concerned, including translation and interpretation services, to Member States carrying out concerted or joint inspections.
4. Staff of the Authority may attend as an observer and provide logistic support, and may participate in a concerted or joint inspection with the prior agreement of the Member State on whose territory they will be providing their assistance to the inspection in line with its national law and practice.
5. National authorities carrying out a concerted or joint inspection shall report back to the Authority on the outcomes within their respective Member States and on the overall operational running of the concerted or joint inspection at the latest six months after the end of the inspection.
 - 5a. It shall be possible to use the information collected during concerted or joint inspections as evidence in legal proceedings in the Member States concerned, in accordance with national law and practice in that Member State.
6. Information on concerted and joint inspections coordinated by the Authority, as well as information provided by Member States and by the Authority as referred to in Article 9(2) and (3) shall be included in biannual reports to be submitted to the Management Board. Such reports shall be sent also to the Stakeholder Group, with sensitive information duly redacted. A yearly report on the inspections supported by the Authority shall be included in the Authority's annual activity report.
7. In the event that the Authority, in the course of concerted or joint inspections, or in the course of any of its activities, becomes aware of suspected irregularities in the application of Union law, it may report, where appropriate, those suspected irregularities to the Member State concerned and to the Commission.

Article 11

Labour mobility analyses and risk assessment

1. The Authority shall in cooperation with Member States and, where appropriate, social partner organisations, assess risks and carry out analyses regarding labour mobility and social security coordination across the Union. The risk assessment and analytical work shall address topics such as labour market imbalances, sector-specific challenges and recurring problems, and the Authority may also carry out focused in-depth analyses and studies to investigate specific issues. In carrying out its risk assessment and analytical work, the Authority shall to the extent possible use relevant and current statistical data available from existing surveys, and ensure complementarity with, and draw on the expertise of other Union agencies or services and/or national authorities, agencies or services, including in the areas of fraud, exploitation, discrimination, skills forecasting and health and safety at work.
2. The Authority shall organise peer reviews amongst Member States which agreed to participate in the peer review in order to:
 - (a) examine any questions, difficulties and specific issues which might arise concerning the implementation and practical application of Union law within the scope of the Authority's competences, as well as its enforcement in practice;
 - (b) strengthen consistency in the provision of services to individuals and businesses;
 - (c) improve the knowledge and mutual understanding of different systems and practices, as well as to assess the effectiveness of different policy measures, including prevention and deterrence measures.
3. Wherever a risk assessment or any other type of analytical work has been completed, the Authority shall report its findings to the Commission, as well as directly to the Member States concerned, outlining possible measures to address identified weaknesses.

The Authority shall also include a summary of its findings in its annual reports to the Commission and the European Parliament.

4. The Authority shall, where appropriate, collect statistical data compiled and provided by Member States in the areas of Union law within the scope of the Authority's competences. In doing so, the Authority shall seek to streamline current data collection activities in those areas to avoid duplication of data collection. Where relevant, Article 16 shall apply. The Authority shall liaise with the Commission (Eurostat) and share the results of its data collection activities, where appropriate.

Article 12

Support to capacity building

The Authority shall support Member States with capacity building aimed at promoting the consistent enforcement of the Union law in all areas listed in Article 1. The Authority shall, in particular, carry out the following activities:

- (a) in cooperation with national authorities and social partners, where appropriate, develop common non-binding guidelines for use by Member States and social partners, including guidance for inspections in cases with a cross-border dimension, as well as shared definitions and common concepts, building on relevant work at national and Union level;
- (b) promote and support mutual assistance, either in the form of peer-to-peer or group activities, as well as staff exchanges and secondment schemes between national authorities;
- (c) promote the exchange and dissemination of experiences and good practices, including examples of cooperation between the relevant national authorities;
- (d) develop sectoral and cross-sectoral training programmes including for labour inspectorates, and dedicated training material, including through online learning methods;
- (e) promote awareness-raising campaigns, including campaigns to inform individuals and employers, especially small and medium-sized enterprises ('SMEs'), of their rights and obligations and the opportunities available to them.

Article 12a (new)

European Platform to enhance cooperation in tackling undeclared work

1. The Platform as referred in Article 17(2) shall support the activities of the Authority in tackling undeclared work by:
 - (1) (a) enhancing cooperation between Member States' relevant authorities and other actors involved in order to tackle more efficiently and effectively undeclared work in its various forms and falsely declared work associated with it, including bogus self-employment;
 - (2) (b) improving the capacity of Member States' different relevant authorities and actors to tackle undeclared work with regard to its cross-border aspects; and in this way contributing to a level playing field;
 - (3) (c) increasing public awareness of issues relating to undeclared work and of the urgent need for appropriate action as well as encouraging Member States to step up their efforts to tackle undeclared work.
 - (4) (d) carrying out the activities listed in the Annex.
2. The Platform shall encourage cooperation between Member States through:
 - (5) (a) exchanging best practices and information;
 - (6) (b) developing expertise and analysis, while overlaps shall be avoided;
 - (7) (c) encouraging and facilitating innovative approaches to effective and efficient cross-border cooperation and evaluating experiences;
 - (8) (d) contributing to a horizontal understanding of matters relating to undeclared work.

3. Members of the Platform shall be:

(9) (a) a senior representative appointed by each Member State,

(10) (b) a representative of the Commission,

(11) (c) a maximum of four representatives of cross-industry social partners at Union level, appointed by those social partners, equally representing both sides of industry.

4. The following may attend the meetings of the Platform as observers and their contributions shall be taken into account into due consideration:

(12) (a) a maximum of 14 representatives of the social partners in sectors with a high incidence of undeclared work, appointed by those social partners, equally representing both sides of industry;

(13) (b) a representative from each of these organisations: Eurofound, EU-OSHA and ILO;

(14) (c) one representative of each third country in the European Economic Area.

Observers other than those referred to in the previous subparagraph may be invited to attend the meetings of the platform and their contributions shall be taken into due consideration.

The Platform shall be chaired by a representative of the Authority.

Article 13

Mediation between Member States

1. The Authority may facilitate a solution in case of disputes between two or more Member States regarding individual cases of application of Union law in areas covered by this Regulation, without prejudice to the powers of the Court of Justice of the European Union. Mediation shall serve to reconcile divergent points of view between the Member States concerned by the dispute and to adopt a non-binding opinion. Mediation is carried out in two subsequent stages.
 - 1a. In case a dispute cannot be solved by direct contacts and dialogue between the Member States concerned, the Authority shall launch a Mediation procedure upon request of one or more of the Member States concerned. The Authority may also suggest to launch a Mediation procedure on its own initiative. Mediation may only be carried out with the agreement of all Member States concerned.
 - 1b.(new) In the first stage of Mediation, the process is carried out between the Member States concerned by the dispute and a mediator who shall adopt a non-binding opinion by common agreement. Experts of Member States, of the Commission and of the Authority may participate in this first stage in an advisory function.
2. If no solution is found in the first stage of Mediation, the Authority shall launch a second stage of Mediation before its Mediation Board, subject to the agreement of all Member States concerned by the dispute.
3. The Mediation Board, in a composition of experts from Member States not party to the dispute, shall seek to reconcile the points of view of the Member States concerned by the dispute and shall adopt a non-binding opinion by agreement. Experts of the Commission and of the Authority may participate in this second stage in an advisory function.
4. The Management Board shall adopt the rules of procedure for the Mediation, including working arrangements and the appointment of mediators, the applicable deadlines, the involvement of experts of the Member States, of the Commission and of the Authority, and the possibility of the Mediation Board to sit in panels composed of several members.

5. The participation of Member States concerned by the dispute in both stages of the Mediation shall be voluntary. Where a Member State concerned decides not to participate in the Mediation procedure, it shall inform the Authority and the other Member States concerned in writing, including by electronic means, about the reasons of its decision within the period set in the rules of procedure.
6. When presenting a case for Mediation by the Authority, Member States shall ensure that all personal data related to that case is anonymised in such a manner that the data subject is not or no longer identifiable. The Authority shall not process the personal data of individuals concerned by the case at any point in the course of the Mediation.
8. Cases in which there are ongoing court proceedings at national or Union level shall not be admissible for mediation by the Authority. In case court proceedings are initiated during the Mediation, the Mediation procedure shall be suspended.
- 8a. Mediation shall be without prejudice to the competence of the Administrative Commission for the Coordination of Social Security Systems (Administrative Commission) established in Article 71 of Regulation 883/2004 including all decisions it takes. Mediation shall take into account all relevant decisions of the Administrative Commission.
9. When a dispute relates, fully or in part, to matters of social security, the Authority shall inform the Administrative Commission.

In order to ensure good cooperation, to coordinate the activities in mutual agreement and to avoid any duplication in cases of mediation which concern both issues of social security and labour law, the Administrative Commission and the Authority shall establish a Cooperation Agreement.

Upon request of the Administrative Commission and in agreement with the Member States concerned, the Authority shall refer the issue concerning social security pursuant to Article 74a(2) of Regulation (EC) No 883/2004. Mediation may continue on the issues not concerning social security.

Upon request of any Member State party to the dispute, the Authority shall refer the issue concerning social security coordination to the Administrative Commission. This referral may be done at any stage of mediation. Mediation may continue on the issues not concerning social security

10. Within three months of the adoption of the non-binding opinion, the Member States concerned shall report to the Authority on measures they have taken resulting from the opinion in order to follow-up on it or on the reasons for not taking action in the event that they did not follow-up.
11. The Authority shall report to the Commission twice a year about the outcomes of the Mediation cases it handled and about cases which were not pursued.

Article 15

Cooperation with other agencies and specialised bodies

The Authority shall aim in all its activities at ensuring cooperation, avoiding overlaps, promoting synergies and complementarity with other decentralised Union agencies and specialised bodies, such as the Administrative Commission for the coordination of social security systems. To this end, the Authority may conclude cooperation agreements with with other relevant Union agencies, such as Cedefop, Eurofound, EU-OSHA, ETF, Europol and Eurojust.

Article 16

Interoperability and exchange of information

The Authority shall coordinate, develop and apply interoperability frameworks to guarantee the exchange of information between Member States and also with the Authority. Those interoperability frameworks shall be based on and supported by the European Interoperability Framework and by the European Interoperability Reference Architecture referred to in Decision (EU) 2015/2240 of the European Parliament and of the Council ³¹.

³¹ Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA² programme) as a means for modernising the public sector (OJ L 318, 4.12.2015, p. 1).

CHAPTER III

ORGANISATION OF THE AUTHORITY

Article 17

Administrative and management structure

1. The Authority's administrative and management structure shall be composed of:
 - (a) a Management Board, which shall exercise the functions set out in Article 19;
 - (b) an Executive Director who shall exercise the responsibilities set out in Article 23;
 - (c) a Stakeholder Group, which shall exercise the functions set out in Article 24.
2. The Authority may set up working groups or expert panels with representatives from Member States and/or from the Commission, or external experts following selection procedures, for the fulfilment of its specific tasks or for specific policy areas. It shall set up a Mediation Board in order to fulfil its tasks in accordance with Article 13 of this Regulation, and a permanent working group, called the European Platform to enhance cooperation in tackling undeclared work (the Platform), in accordance with Article 12a.

The rules of procedure of such working groups and panels shall be set out by the Authority following consultation of the Commission.

SECTION 1

MANAGEMENT BOARD

Article 18

Composition of the Management Board

1. The Management Board shall be composed of:
 - (a) one senior representative from each Member State;
 - (b) two representatives of the Commission;

- (c) one independent expert appointed by the European Parliament;
- (d) four representatives of cross-industry social partners at Union level, equally representing trade unions and employers' organisations.

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

Each of the members referred to in points (c)-(d) shall not have the right to vote.

- 2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his or her absence.
- 3. Members of the Management Board representing their Member States and their alternates shall be appointed by their respective Member States.

The Commission shall appoint the members who are to represent it, the cross-industry social partners at Union level shall appoint their representatives and the European Parliament shall appoint its independent expert, after verifying that there is no conflict of interest.

All members of the Management Board shall be appointed in light of their knowledge in the fields referred to in Article 1, taking into account relevant managerial, administrative and budgetary skills.

All parties represented on the Management Board shall endeavour to limit the turnover of their representatives in order to ensure continuity of its work. All parties shall aim to achieve a balanced representation between women and men on the Management Board.

- 3a. Each member and alternate shall sign a written statement at the time of taking office declaring that he or she is not in a situation of conflict of interests. Each member and alternate shall update his or her statement in the case of a change of circumstances in regard to any conflict of interests. The Authority shall publish the statements and updates on its website.
- 4. The term of office of members and alternates shall be four years. That term shall be renewable.

5. Representatives from third countries, which are applying the Union law in areas covered by this Regulation, may participate in the meetings and deliberations of the Management Board as observers.

5a. A representative of Eurofound, a representative of EU-OSHA, a representative of Cedefop and a representative of the European Training Foundation may be invited to participate as observers in the meetings of the Management Board in order to enhance the efficiency of the agencies and the synergies between them.

Article 19

Functions of the Management Board

1. The Management Board shall, in particular:

- (a) provide the strategic orientations and oversee the Authority's activities;
- (b) adopt, by a two-thirds majority of its members entitled to vote, the annual budget of the Authority and exercise other functions in respect of the Authority's budget pursuant to Chapter IV;
- (c) assess and adopt the consolidated annual activity report on the Authority's activities, including an overview of the fulfilment of its tasks, and send it to the European Parliament, the Council, the Commission and the Court of Auditors before 1 July each year. The consolidated annual activity report shall be made public;
- (d) adopt the financial rules applicable to the Authority in accordance with Article 30;
- (e) adopt an anti-fraud strategy, proportionate to the risk of fraud, taking into account the costs and benefits of the measures to be implemented;
- (f) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as the members of the Stakeholder Group and the working groups and panels of the Authority set up in accordance with Article 17(2) and independent experts, as well as for seconded national experts and other staff not employed by the Authority as referred to in Article 34, and shall publish annually on its website the declaration of interests of the Management Board members;

- (g) adopt and regularly update the communication and dissemination plans referred to in Article 37(3), based on an analysis of needs;
- (h) adopt its rules of procedure;
- (ha) adopt the rules of procedure of the Mediation pursuant to Article 13;
- (i) set up working groups and panels pursuant to Article 17(2) and adopt their rules of procedures.
- (j) in accordance with paragraph 2, exercise, with respect to the staff of the Authority, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment³² ("the appointing authority powers");
- (k) adopt implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- (l) establish, where appropriate, an internal audit capacity;
- (m) appoint the Executive Director and, where relevant, extend the term of office or remove the Executive Director from office in accordance with Article 32;
- (n) appoint an Accounting Officer who shall be subject to the Staff Regulations and Conditions of Employment for Other Servants and who shall be totally independent in the performance of his or her duties;
- (o) determine the procedure for selecting the members and alternates of the Stakeholder Group set up in accordance with Article 24 and appoint the said members and alternates;

³² Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

- (p) ensure an adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations from the European Anti-fraud Office (OLAF);
 - (q) take all decisions on the establishment of the Authority's internal committees or other bodies and, where necessary, their modification, taking into consideration the Authority's activity needs and having regard to sound financial management;
 - (r) approve the Authority's draft single programming document referred to in Article 25 before its submission to the Commission for its opinion;
 - (s) adopt, having received the opinion of the Commission, the Authority's single programming document by a two-thirds majority of members entitled to vote and in accordance with Article 25;
2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and setting out the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.
3. Where exceptional circumstances so require, the Management Board may, by way of decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 20

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among the members with voting rights, and shall strive for gender balance. The Chairperson and the Deputy Chairperson shall be elected by a majority of two-thirds of the members of the Management Board with voting rights.

In the event that a first vote does not reach the two-thirds majority, a second vote shall be organised whereby the Chairperson and Deputy Chairperson shall be elected by a simple majority of the members of the Management Board with voting rights.

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

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

Article 21

Meetings of the Management Board

1. The Chairperson shall convene the meetings of the Management Board.
 - 1a. The Chairperson shall organise the deliberations in function of the items on the agenda. The members referred to in article 18(1) (c) and (d), shall not participate in deliberations on items related to sensitive information regarding individual cases, as specified in the rules of procedure of the Management Board.
2. The Executive Director of the Authority shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold at least two ordinary meetings per year. In addition, it shall meet at the request of its Chairperson, at the request of the Commission, or at the request of at least one-third of its members.
4. The Management Board shall convene meetings with the Stakeholder Group at least once a year.
5. The Management Board may invite any person or organisation whose opinion may be of interest to attend its meetings as an observer, including members of the Stakeholder Group.

6. The members of the Management Board and their alternates may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.
7. The Authority shall provide the secretariat for the Management Board.

Article 22

Voting rules of the Management Board

1. Without prejudice to points (b) and (s) of Article 19(1) and to Articles 20(1) and 32(8), the Management Board shall take decisions by the majority of members with voting rights.
2. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote.
4. The Executive Director of the Authority shall take part in the deliberations, without the right to vote.
5. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and the circumstances in which written procedures are to be used for voting.

SECTION 2

EXECUTIVE DIRECTOR

Article 23

Responsibilities of the Executive Director

1. The Executive Director shall manage the Authority and shall aim to ensure gender balance within the Authority. The Executive Director shall be accountable to the Management Board.
2. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.

3. The Executive Director shall be the legal representative of the Authority.
4. The Executive Director shall be responsible for the implementation of the tasks assigned to the Authority by this Regulation, in particular:
 - (a) the day-to-day administration of the Authority;
 - (b) implementing decisions adopted by the Management Board;
 - (c) preparing the draft single programming document and submitting it to the Management Board for approval;
 - (d) implementing the single programming document and reporting to the Management Board on its implementation;
 - (e) preparing the draft consolidated annual report on the Authority's activities and presenting it to the Management Board for assessment and adoption;
 - (f) preparing an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF and reporting on progress twice a year to the Commission and regularly to the Management Board;
 - (g) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial penalties;
 - (h) preparing an anti-fraud strategy for the Authority and presenting it to the Management Board for approval;
 - (i) preparing the draft financial rules applicable to the Authority and presenting them to the Management Board;
 - (j) preparing the Authority's draft statement of estimates of revenue and expenditure as part of the Authority's single programming document, and implementing its budget;

- (ja) in accordance with the decision referred to in Article 19(2), taking decisions with regard to the management of human resources;
 - (jb) taking decisions with regard to the Authority's internal structures including, where necessary, deputising functions which may cover the day-to-day management of the Authority and, where necessary, their amendment, taking into account the needs relating to the Authority's activities and sound budgetary management;
 - (jc) where relevant, cooperating with other Union agencies, and concluding cooperation agreements with them;
 - (k) implementing measures established by the Management Board for the application of Regulation (EU) No 2018/1725 by the Authority.
 - (ka) inform the Management Board about the submissions from the Stakeholder Group.
5. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States and whether it is necessary to establish a liaison office in Brussels to further the Authority's cooperation with the relevant Union institutions and bodies. Before deciding to establish a local office or a liaison office, the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State where the office is to be located. The decision shall specify the scope of the activities to be carried out at the office in a manner that avoids unnecessary costs and the duplication of administrative functions of the Authority. A headquarters agreement with the Member State where the local office or liaison office is to be located may be required.

SECTION 3

STAKEHOLDER GROUP

Article 24

Creation and composition of the Stakeholder Group

1. To facilitate consultation with relevant stakeholders and to benefit from their expertise in areas covered by this Regulation, a Stakeholder Group with advisory functions attached to the Authority shall be established.

2. The Stakeholder Group shall receive prior briefing and may, upon request by the Authority or on its own initiative, submit opinions to the Authority on:
 - (a) issues related to the application and enforcement of Union law in the areas covered by this Regulation, including on the cross-border labour mobility analyses and risk assessments, as referred to in Article 11;
 - (b) the draft consolidated annual activity report on the Authority's activities, as referred to in Article 19;
 - (c) the draft single programming document, as referred to in Article 25.
3. The Stakeholder Group shall be chaired by the Executive Director and shall meet at least twice a year on the initiative of the Executive Director or at the request of the Commission.
4. The Stakeholder Group shall be composed of two representatives of the Commission and ten representatives of Union-level social partners equally representing trade unions and employer's organisations including recognised Union sectoral social partners representing sectors particularly concerned by labour mobility issues.
5. The members and alternate members of the Stakeholder Group shall be nominated by their respective organisations and appointed by the Management Board. The alternate members shall be appointed by the Management Board in accordance with the same conditions as members, and shall automatically replace any members who are absent or indisposed. To the extent possible, an appropriate gender balance shall be respected, as well as adequate representation of SMEs.
6. The Authority shall provide the secretariat for the Stakeholder Group. The Stakeholder Group shall adopt its rules of procedure by a two-thirds majority of its members entitled to vote. The rules of procedure shall be subject to approval by the Management Board.
 - 6a. The Stakeholder Group may invite experts or relevant international organisations to its meetings.
7. The Authority shall make public the opinions, advice and recommendations of the Stakeholder Group and the results of its consultations, except in case of confidentiality requirements.

CHAPTER IV

ESTABLISHMENT AND STRUCTURE OF THE BUDGET OF THE AUTHORITY

SECTION 1

SINGLE PROGRAMMING DOCUMENT OF THE AUTHORITY

Article 25

Annual and multi-annual programming

1. Each year, the Executive Director shall draw up a draft single programming document containing in particular multi-annual and annual programming in accordance with Commission Delegated Regulation (EU) No 1271/2013³³ and taking into account guidelines set by the Commission and any advice given by the Stakeholder Group.
2. By 30 November each year, the Management Board shall adopt the draft single programming document referred to in paragraph 1. It shall forward it to the European Parliament, the Council and the Commission by 31 January of the following year, as well as any later updated version of that document.

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

3. The annual work programme shall set out detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action. The annual work programme shall be consistent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. The Management Board shall amend the adopted annual work programme when a new task is given to the Authority within the scope of this Regulation.

³³ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

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

4. The multi-annual work programme shall set out the overall strategic programming including objectives, expected results and performance indicators. It shall also show, for each activity, the indicative financial and human resources considered necessary to attain the objectives set.

The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 41.

Article 26

Establishment of the budget

1. Each year, the Executive Director shall draw up a provisional draft estimate of the Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.
 - 1a. The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 25(3) and shall take into account the financial resources necessary to achieve those objectives and expected results, in accordance with the principle of performance-based budgeting.
2. The Management Board shall, on the basis of the provisional draft estimate, adopt a draft estimate of the Authority's revenue for the following financial year, and shall send it to the Commission by 31 January each year.
4. The Commission shall send the draft estimate to the budgetary authority together with the draft general budget of the Union. The draft estimate shall also be made available to the Authority.

5. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.
6. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to ELA.
7. The budgetary authority shall adopt the Authority's establishment plan.
8. The Management Board shall adopt the Authority's budget. It shall become final following the final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.
9. For any building project likely to have significant implications for the budget of the Authority the provisions of Delegated Regulation (EU) No 1271/2013 shall apply.

SECTION 2

PRESENTATION, IMPLEMENTATION AND CONTROL OF THE BUDGET OF THE AUTHORITY

Article 27

Structure of the budget

1. Estimates of all revenue and expenditure for the Authority shall be prepared each financial year, corresponding to the calendar year, and shall be shown in the Authority's budget.
2. The Authority's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the Authority's revenue shall comprise:
 - (a) a contribution from the Union;
 - (b) any voluntary financial contribution from the Member States;
 - (c) any contribution from third countries participating in the work of the Authority, pursuant to Article 43;

- (d) possible Union funding in the form of delegation agreements or ad hoc grants in accordance with the Authority's financial rules referred to in Article 30 and with the provisions of the relevant instruments supporting the policies of the Union;
 - (e) charges for publications and any service provided by the Authority.
4. The expenditure of the Authority shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

Article 28

Implementation of the budget

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

Article 29

Presentation of accounts and discharge

1. By 1 March of the following financial year, the Authority's accounting officer shall send the provisional accounts to the Commission's Accounting Officer and to the Court of Auditors.
2. By 1 March of the following financial year, the Authority's accounting officer shall also provide the required accounting information for consolidation purposes to the accounting officer of the Commission, in the manner and format required by the latter.
3. By 31 March of the following financial year, the Authority shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.
4. On receipt of the Court of Auditor's observations on the Authority's provisional accounts, the Authority's accounting officer shall draw up the Authority's final accounts under his or her own responsibility. The Executive Director shall submit the final accounts to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Authority's final accounts.

6. By 1 July following each financial year, the Executive Director shall send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. A link to the pages of the website containing the final accounts of the Authority shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.
8. The Executive Director shall send to the Court of Auditors a reply to the observations made in its annual report by 30 September. The Executive Director shall also send this reply to the Management Board and to the Commission.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Financial Regulation.
10. On a recommendation from the Council acting by qualified majority, the European Parliament shall, before 15 May of year N+2, give a discharge to the Executive Director in respect of the implementation of the budget of year N.

Article 30
Financial rules

The financial rules applicable to the Authority shall be adopted by the Management Board after consulting the Commission. They shall not depart from Delegated Regulation (EU) 1271/2013 unless such a departure is specifically required for the Authority's operation and the Commission has given its prior consent.

CHAPTER V

STAFF

Article 31

General provision

The Staff Regulations and the Conditions of Employment of Other Servants³⁴ and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Authority.

Article 32

Executive Director

1. The Executive Director shall be engaged as a temporary agent of the Authority in accordance with Article 2(a) of the Conditions of Employment of Other Servants.
2. The Executive Director shall be appointed by the Management Board from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The selected candidate shall be invited to make a statement before the European Parliament and to answer questions from Members of Parliament. That exchange of views shall not unduly delay the appointment.
3. For the purpose of concluding the contract with the Executive Director, the Authority shall be represented by the Chairperson of the Management Board.
4. The term of office of the Executive Director shall be five years. Before the end of that period, the Commission shall carry out an assessment that takes into account an evaluation of the Executive Director's performance and the Authority's future tasks and challenges.
5. The Management Board may taking into account the assessment referred to in paragraph 4, extend the Executive Director's term of office once for no more than five years.
6. Where the term of office of an Executive Director has been extended, he or she shall not participate in another selection procedure for the same post at the end of the overall period.

³⁴ OJ L 56, 4.3.1968, p. 1.

7. The Executive Director may be removed from office only upon a decision of the Management Board. In its decision, the Management Board shall take into account the Commission's assessment of the Executive Director's performance, as referred to in paragraph 4.
8. The Management Board shall reach decisions on the appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of its members entitled to vote.

Article 33

National Liaison Officers

1. Each Member State shall designate one National Liaison Officer as a seconded national expert to the Authority and work at its seat, pursuant to Article 34.
2. National Liaison Officers shall contribute to executing the tasks of the Authority, including by facilitating the cooperation and exchange of information set out in Article 8 and the support and coordination of inspections set out in Article 9. They shall also act as national contact points for questions from their Member States and relating to their Member States, either by answering those questions directly or by liaising with their national administrations.
3. National Liaison Officers shall be entitled to request and receive all relevant information from their Member States, as provided for by this Regulation, while fully respecting the national law of their Member States, in particular as regards data protection and the rules on confidentiality.

Article 34

Seconded national experts and other staff

1. In addition to the National Liaison Officers, the Authority may make use in any areas of its work of other seconded national experts or other staff not employed by the Authority.
2. The Management Board shall adopt the necessary implementing arrangements for seconded national experts, including National Liaison Officers.

Chapter VI

General and final provisions

Article 35

Privileges and immunities

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

Article 36

Language arrangements

1. The provisions laid down in Regulation No 1³⁵ shall apply to the Authority.
2. The translation services required for the Authority's functioning shall be provided by the Translation Centre.

Article 37

Transparency, protection of personal data and communication

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Authority. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.
2. The Management Board shall establish measures to comply with the obligations laid down in Regulation (EC) No 45/2001, in particular those concerning the appointment of a Data Protection Officer of the Authority and those relating to the lawfulness of the processing of data, the security of the processing activities, the provision of information and the rights of data subjects.

³⁵ Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

3. The Authority may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 5. Communication activities shall be carried out in accordance with the relevant communication and dissemination plans adopted by the Management Board.

Article 38

Combating fraud

1. In order to facilitate the combating of fraud, corruption and other unlawful activities in accordance with Regulation (EC) No 883/2013, within six months from the day that the Authority becomes operational, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by OLAF and adopt appropriate provisions applicable to all employees of the Authority using the template set out in the Annex to that Agreement.
2. The Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Authority.
3. OLAF may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Authority, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Authority shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 39

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

The Authority shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, inter alia, provisions for the exchange, processing and storage of such information, in accordance with Commission Decisions (EU, Euratom) 2015/443³⁶ and 2015/444³⁷.

Article 40

Liability

1. The Authority's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Authority.
3. In the case of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of its staff towards the Authority shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

³⁶ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p.41).

³⁷ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p.53).

Article 41
Evaluation and review

1. No later than five years after the date referred to in Article 51, and every five years thereafter, the Commission shall assess the Authority's performance in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the experiences gained from the Mediation procedure pursuant to Article 13. It shall also address the possible need to modify the mandate and scope of the Authority, including the extension of its scope to cover sector specific needs, and the financial implications of any such modification taking into account also the work performed by Agencies active in these areas. The evaluation shall also explore further synergies and streamlining with Agencies active in the area of employment and social policy. On the basis of this evaluation, the Commission may, as appropriate, submit proposals to review the scope of the Authority.
2. Where the Commission considers that the continuation of the Authority is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.
3. The Commission shall report to the European Parliament, the Council and the Management Board on the evaluation findings. The findings of the evaluation shall be made public.

Article 42
Administrative inquiries

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

Article 43
Cooperation with third countries

1. In so far as is necessary in order to achieve the objectives set out in this Regulation, and without prejudice to the respective competences of the Member States and of the Union institutions, the Authority may cooperate with the competent authorities of third countries and with international organisations.

To that end, the Authority may, subject to the authorisation of the Management Board and after the approval of the Commission, establish working arrangements with the competent authorities of third countries and with international organisations. Those arrangements shall not create legal obligations incumbent on the Union or its Member States.

2. The Authority shall be open to the participation of third countries that have entered into agreements with the Union to this effect.

Under the relevant provisions of the agreements referred to in the first subparagraph, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries concerned shall participate in the work of the Authority, including provisions relating to participation in the initiatives carried out by the Authority, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

3. The Commission shall ensure that the Authority operates within its mandate and the existing institutional framework by concluding an appropriate working arrangement with the Authority's Executive Director.

Article 44

Headquarters agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Authority in the host Member State, together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, Authority staff and members of their families, shall be laid down in a Headquarters agreement between the Authority and the Member State where the seat is located, to be concluded after obtaining the approval of the Management Board and no later than two years after the entry into force of this Regulation.
2. The Authority's host Member State shall provide the best possible conditions to ensure the smooth and efficient functioning of the Authority, including multilingual European-oriented schooling and appropriate transport connections.

Article 45

Commencement of the Authority's activities

1. The Authority shall become operational with the capacity to implement its own budget within two years of entry into force of this Regulation.
2. The Commission shall be responsible for the establishment and initial operation of the Authority until the Authority becomes. For this purpose:
 - (a) until the Executive Director takes up his or her duties following his or her appointment by the Management Board in accordance with Article 32, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;
 - (b) by derogation from point (j) of Article 19(1) and until the adoption of a decision as referred to in Article 19(2), the interim Executive Director shall exercise the appointing authority power;
 - (c) the Commission may offer assistance to the Authority, in particular by seconding Commission officials to carry out the activities of the Authority under the responsibility of the interim Executive Director or the Executive Director;
 - (d) the interim Executive Director may authorise all payments covered by appropriations entered in the Authority's budget after approval by the Management Board and may conclude contracts, including staff contracts, following the adoption of the Authority's establishment plan.

Article 46
Amendments to Regulation (EC) 883/2004

Regulation (EC) No 883/2004 is amended as follows:

(1) in Article 1, the following point is inserted:

"(na) 'European Labour Authority' means the body established by [Regulation Establishing the Authority] and referred to in Article 74;"

(4) After Article 74 the following Article is inserted:

"Article 74a

The European Labour Authority

1. Without prejudice to the tasks and activities of the Administrative Commission the European Labour Authority shall support the application of this Regulation in accordance with its tasks set out in [Regulation establishing ELA]. The Administrative Commission shall cooperate with the European Labour Authority to coordinate the activities in mutual agreement and avoid any duplications. To this end it shall conclude a cooperation agreement with the European Labour Authority.
2. The Administrative Commission may request the European Labour Authority to refer an issue concerning social security under Mediation in accordance with the second subparagraph of Article 13(9) of [Regulation establishing ELA]."

Article 48
Amendments to Regulation (EU) No 492/2011

Regulation (EU) No 492/2011 is amended as follows:

(1) in Article 26 the following paragraph is added:

"The European Labour Authority, established by [*Regulation establishing a European Labour Authority*]" shall participate in the meetings of the Advisory Committee as an observer, providing technical input and expertise as relevant.";

(2) Articles 29 to 34 are deleted with effect on the date when the Authority becomes operational in accordance with Article 45(1);

(3) Article 35 is replaced by the following:

"Article 35

The rules of procedure of the Advisory Committee in force on 8 November 1968 shall continue to apply.";

(4) Article 39 is replaced by the following:

"Article 39

The administrative expenditure of the Advisory Committee shall be included in the general budget of the European Union in the section relating to the Commission.".

Article 49

Amendments to Regulation (EU) 2016/589

Regulation (EU) 2016/589 is amended as follows:

(1) Article 1 is amended as follows:

(a) point (a) is replaced by the following:

"(a) the organisation of the EURES network between the Commission, the European Labour Authority and the Member States;"

(b) point (b) is replaced by the following:

"(b) cooperation between the Commission, the European Labour Authority and the Member States on sharing relevant available data on job vacancies, job applications and CVs;"

(c) point (f) is replaced by the following:

"(f) promotion of the EURES network at Union level through effective communication measures taken by the Commission, the European Labour Authority and the Member States.";

(2) in Article 3, the following point is added:

"(8) 'European Labour Authority' means the body established pursuant to [*Regulation establishing a European Labour Authority*]";

(3) in Article 4(2), the second sentence is replaced by the following:

"The Commission, the European Coordination office and the EURES Members and Partners shall determine the means to ensure this with regard to their respective obligations.";

(4) Article 7(1) is amended as follows:

(a) point (a) is replaced by the following:

"(a) a European Coordination Office which shall be established within the European Labour Authority and which shall be responsible for assisting the EURES network in carrying out its activities;"

(b) the following point is added:

"(e) the Commission.";

(5) Article 8 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory phrase is replaced by the following:

"The European Coordination Office shall assist the EURES network in carrying out its activities, in particular by developing and conducting, in close cooperation with the NCOs and the Commission, the following activities:";

(ii) in point (a), point (i) is replaced by the following:

"(i) as the system owner for the EURES portal, and related IT services, the definition of user needs and business requirements to be transmitted to the Commission for the operation and development of the portal, including its systems and procedures for the exchange of job vacancies, job applications, CVs and supporting documents and other information, in cooperation with other relevant Union information and advisory services or networks, and initiatives;";

(b) paragraph 2 is replaced by the following:

"2. The European Coordination Office shall be managed by the European Labour Authority. The European Coordination Office shall establish a regular dialogue with the representatives of the social partners at Union level.";

(c) paragraph 3 is replaced by the following:

"3. The European Coordination Office shall, in consultation with the Coordination Group referred to in Article 14 and with the Commission, draw up its multiannual work programmes.";

(6) in Article 9(2), point (b) is replaced by the following:

"(b) cooperation with the Commission, the European Labour Authority and the Member States on the clearance within the framework set in Chapter III;";

(7) in Article 14, paragraph 1 is replaced by the following:

"1. The Coordination Group shall be composed of representatives at the appropriate level of the European Coordination Office, the Commission and the NCOs.";

(7a) In Article 16, paragraph 6 is replaced by the following:

"6. Member States shall examine with the Commission and the European Coordination Office every possibility of giving priority to citizens of the Union when filling job vacancies, in order to achieve a balance between labour supply and demand within the Union. Member States may adopt all measures necessary for that purpose."

(7b) In Article 19, paragraph 1 is replaced by the following:

"1. Member States shall cooperate with each other and with the Commission and the European Coordination Office regarding interoperability between national systems and the European classification developed by the Commission. The Commission shall keep the Member States informed about the development of the European classification."

(8) Article 29 is replaced by the following:

"Article 29

Exchange of information on flows and patterns

The Commission and the Member States shall monitor and make public labour-mobility flows and patterns in the Union on the basis of reports by the European Labour Authority, using Eurostat statistics and available national data."

Article 50

Repeal

Decision (EU) 2016/344 is repealed with effect on the date when the Authority becomes operational in accordance with Article 45(1).

Article 51

Entry into force

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

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX – Activities of the European Platform tackling undeclared work

In supporting the objectives of the Authority in tackling undeclared work, the Platform shall, in particular, seek to:

- (i) improving the knowledge of undeclared work, including causes, regional differences and cross-border aspects thereof, by means of shared definitions and common concepts, evidence-based measurement tools and promotion of comparative analysis; developing mutual understanding of different systems and practices to tackle undeclared work and analysing the effectiveness of policy measures, including preventive measures and penalties;
- (ii) facilitating and evaluating different forms of cooperation between Member States, and where relevant third countries, such as the exchange of staff, use of databases, joint activities and joint trainings, and setting up a system of information exchange for administrative cooperation using a specific module on undeclared work under the Internal Market Information System (IMI);
- (iii) establishing tools, for instance a knowledge bank, for efficient sharing of information and experiences, and developing guidelines for enforcement, handbooks of good practices, shared principles of inspections to tackle undeclared work and common activities such as European campaigns; evaluating experiences of such tools;
- (iv) developing a peer learning programme for the identification of good practices in all areas relevant for tackling undeclared work and organising peer reviews to follow progress in tackling undeclared work in Member States choosing to participate in such reviews;
- (v) exchanging national authorities' experiences in applying Union law relevant to tackling undeclared work.