



Council of the
European Union

Brussels, 23 March 2023
(OR. en)

**Interinstitutional File:
2023/0078(NLE)**

**7766/23
ADD 1**

**AELE 12
EEE 9
N 32
ISL 24
FL 10
MI 235
SOC 206
EMPL 144**

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	23 March 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 149 final
Subject:	ANNEX to the Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (EU-OSHA)

Delegations will find attached document COM(2023) 149 final.

Encl.: COM(2023) 149 final



EUROPEAN
COMMISSION

Brussels, 22.3.2023
COM(2023) 149 final

ANNEX

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to the

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

(EU-OSHA)

ANNEX

DECISION OF THE EEA JOINT COMMITTEE

No [...]

of [...]

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94¹.
- (2) Regulation (EU) 2019/126 repeals Council Regulation (EC) No 2062/94², which is included in the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (3) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2023,

HAS ADOPTED THIS DECISION:

Article 1

The text of paragraph 11 of Article 5 of Protocol 31 shall be replaced by the following:

- ‘(a) The EFTA States shall participate fully in the European Agency for Safety and Health at Work (EU-OSHA), hereinafter referred to as the “Agency”, as set up by the following Union act:
- **32019 R 0126:** Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (OJ L 30, 31.1.2019, p. 58).
- (b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) and Protocol 32 of the Agreement.
- (c) The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote.

¹ OJ L 30, 31.1.2019, p. 58.

² OJ L 216, 20.8.1994, p. 1.

- (d) The term ‘Member State(s)’ and other terms referring to their public entities contained in Article 12 of the Regulation shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their public entities.
- (e) The Agency shall have legal personality. It shall enjoy in all the states of the Contracting Parties the most extensive legal capacity accorded to legal persons under their laws.
- (f) The EFTA States shall grant privileges and immunities to the Agency and its staff equivalent to those contained in the Protocol on Privileges and Immunities of the European Union.
- (g) By way of derogation from Article 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants of the European Union, nationals of EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.
- (h) By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, the languages referred to in Article 129(1) of the Agreement shall be considered by the Agency, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.
- (i) By virtue of Article 79(3) of the Agreement, Part VII (Institutional Provisions) of the Agreement shall apply to this paragraph.
- (j) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents³ shall, for the application of Regulation (EU) 2019/126, apply to any documents of the Agency regarding the EFTA States as well.’

Article 2

This Decision shall enter into force on the day following the last notification under Article 103(1) of the EEA Agreement*.

It shall apply from 1 January 2023.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, [...].

For the EEA Joint Committee

The President

[...]

³ OJ L 145, 31.5.2001, p. 43.

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]

The Secretaries
To the EEA Joint Committee
[\[...\]](#)

Joint Declaration by the Contracting Parties
to Decision No .../... incorporating Regulation (EU) 2019/126 of the European
Parliament and of the Council into the Agreement

The parties acknowledge that the incorporation of this act is without prejudice to the direct application of Protocol 7 on the privileges and immunities of the European Union to the nationals of EFTA states in the territory of each Member State of the European Union, pursuant to Article 11 of that Protocol.