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**PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	13 March 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 131 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European Labour Authority

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Delegations will find attached document COM(2018) 131 final.

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Strasbourg, 13.3.2018  
COM(2018) 131 final

2018/0064 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing a European Labour Authority**

(text with relevance for the EEA and for Switzerland)

{SWD(2018) 68 final} - {SWD(2018) 69 final} - {SWD(2018) 80 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Strengthening fairness of the Internal Market has been one of the priorities of the mandate of the Juncker Commission<sup>1</sup>. On 17 November 2017, the European Parliament, the Council and the Commission jointly proclaimed at the Social Summit in Gothenburg the European Pillar of Social Rights<sup>2</sup>. The Pillar sets out a number of key principles and rights to support fair and well-functioning labour markets and welfare systems. It is designed as a compass for a renewed process of convergence towards better working and living conditions across the Union, ensuring the citizens equal opportunities and access to the labour market, fair working conditions and social protection and inclusion. Ensuring fair labour mobility in Europe is central to this objective.

Cross-border labour mobility in the EU benefits individuals, economies and societies as a whole. From the EU's policies and priorities, the one that citizens support most is the free movement of EU citizens, encompassing the possibility for citizens to live, work, study and do business anywhere in the EU<sup>3</sup>. The free movement of workers and the freedom to provide services within the Union depend on clear, fair and effectively enforced rules on cross-border labour mobility and social security coordination. To this end, the EU has developed an extensive body of legislation regulating free movement of workers, posting of workers and social security coordination. The Juncker Commission has submitted several proposals to improve this regulatory framework<sup>4</sup>.

However, concerns remain regarding compliance with and effective and efficient enforcement of EU rules, which risks jeopardising trust and fairness in the Internal Market. In particular, concerns have been voiced in relation to mobile workers being vulnerable to abuse or being denied their rights, as well as businesses operating in an uncertain or unclear business environment and unequal playing field. Cross-border labour mobility has notably increased in recent years. In 2017, 17 million citizens lived or worked in a Member State other than that of their nationality. This figure almost doubled compared to a decade ago. Postings have increased by 68% from 2010 to 2.3 million in 2016.<sup>5</sup> 1.4 million EU citizens commute to go to work in another Member State<sup>6</sup>. There are also over 2 million workers in the road transport sector who cross intra-EU borders on a daily basis to transport goods or passengers. There is a need for effective cooperation between national authorities and for concerted administrative action to manage the increasingly European labour market.

The European Parliament has, on several occasions, underlined the need both to reinforce controls and coordination between and by Member States<sup>7</sup>, including through strengthening

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<sup>1</sup> A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change, 10 Commission priorities for 2015-19: [https://ec.europa.eu/commission/priorities\\_en](https://ec.europa.eu/commission/priorities_en).

<sup>2</sup> An overview of the European Pillar of Social Rights is available here: [https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en).

<sup>3</sup> Standard Eurobarometer 88 - Public opinion in the European Union, December 2017.

<sup>4</sup> COM(2016) 128 final, COM(2016) 815 final, COM(2017) 278 final, COM(2017) 277 final and COM(2017) 281.

<sup>5</sup> 2016 Annual Report on Intra-EU Labour Mobility, second edition May 2017.

<sup>6</sup> 2017 Annual Report on Intra-EU Labour Mobility.

<sup>7</sup> European Parliament resolution of 14 September 2016 on social dumping in the European Union (2015/2255(INI)).

of information exchanges between labour inspectorates<sup>8</sup>, and to actively support the exercise of free movement rights<sup>9</sup>. The Council has also stressed the need to improve administrative cooperation and develop assistance and information exchanges in the context of fighting fraud related to the posting of workers, while emphasising the importance of clear and transparent information for service providers and workers<sup>10</sup>.

Against this backdrop, in his State of the Union address 2017<sup>11</sup>, President Juncker proposed the establishment of a 'European Labour Authority' to ensure that EU rules on labour mobility are enforced in a fair, simple, and effective way. This proposal aims at setting up such a European Labour Authority – hereafter referred to as ‘the Authority’ – in the form of a decentralised EU agency to address the following main challenges:

- Inadequate support and guidance for individuals and businesses in cross-border situations, including incomplete or sparse information available to the public concerning their rights and obligations;
- Insufficient access to and sharing of information between national authorities responsible for different domains of labour mobility and social security coordination;
- Insufficient capacity of national authorities to organise cooperation with authorities across borders;
- Weak or absent mechanisms for joint cross-border enforcement activities;
- The lack of a dedicated cross-border mediation mechanism between Member States across all domains of labour mobility and social security coordination;
- Insufficient cooperation set-up at EU level in this area.

The overarching objective of the initiative is to contribute to ensuring fair labour mobility in the Internal Market. In this context, the proposal aims at:

- Improving access to information by individuals and employers about their rights and obligations in the areas of labour mobility and social security coordination as well as access to relevant services;
- Strengthening operational cooperation between authorities in the cross-border enforcement of relevant Union law, including facilitating joint inspections;
- Providing mediation and facilitating solutions in cases of disputes between national authorities and cross-border labour market disruptions, such as a restructuring of companies affecting several Member States.

Concretely, the Authority will be entrusted with a number of operational tasks, namely to provide relevant information and services to individuals and employers, as well as support Member States in cooperation, information exchange, concerted and joint inspections, risk assessment, capacity building, mediation, and cooperation in the event of cross-border labour market disruptions. Existing EU structures and tools in the area of cross-border labour mobility and social security coordination will be integrated or complemented by an Authority providing Member States with unprecedented operational and technical support.

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<sup>8</sup> European Parliament resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe (2013/2112(INI)).

<sup>9</sup> European Parliament resolution of 19 January 2017 on a European Pillar of Social Rights (2016/2095(INI)).

<sup>10</sup> Council, General approach on the proposal for a Directive amending Directive 96/71/EC concerning the posting of workers, 13612/17, 24 October 2017.

<sup>11</sup> The 2017 State of the Union address is available at: [https://ec.europa.eu/commission/state-union-2017\\_en](https://ec.europa.eu/commission/state-union-2017_en)

The Authority will benefit to all individuals who are subject to Union rules in the area of cross-border labour mobility and social security coordination, concretely workers, self-employed persons or other individuals who are Union citizens or third-country nationals legally resident in the Union and in a cross-border situation. This includes posted workers, EU Blue Card holders, intra-corporate transferees and long-term residents as long as they are subject to the above mentioned rules. It will also benefit companies engaged in cross-border activities, including for recruitment purposes.

- **Consistency with existing policy provisions in the policy area**

The Authority will help to ensure that workers' and citizens' rights to equal treatment and access to employment opportunities and social security are guaranteed in cross-border situations. It will also provide transparency for businesses on local labour standards throughout the Internal Market. Finally, it will support cooperation between national authorities to ensure that workers' and citizens' social rights are respected and to prevent fraud and abuse.

The Commission has adopted a number of initiatives and proposals to promote fair labour mobility, in particular, the revisions of the Posting of Workers Directive<sup>12</sup> and of the Regulations on the Coordination of Social Security Systems<sup>13</sup> as well as the package "Europe on the Move", including the *lex specialis* on the posting of workers in international road transport operations<sup>14</sup> and the revision of social and market rules in road transport<sup>15</sup>. These recent initiatives follow in the path of previous legislative proposals, such as the Directives on enforcement of posting of workers<sup>16</sup> and free movement of workers<sup>17</sup>, the Regulation on EURES (European network of employment services)<sup>18</sup> and initiatives such as the set-up of a European Platform to tackle undeclared work<sup>19</sup>.

Within the context of the preparations of these proposals and discussions during their legislative procedure, the need for a strengthened framework for the application and enforcement of existing rules became evident. The proposal of a European Labour Authority aims at filling this gap.

Establishing the proposed Authority will allow to concentrate tasks some of which are currently dispersed over several committees and bodies and introduce operational support across the areas of labour mobility and social security coordination, thereby increasing the consistency of EU policy on issues of cross-border mobility (for details, see below the section 'Regulatory fitness and simplification').

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<sup>12</sup> COM(2016) 128 final.

<sup>13</sup> COM(2016) 815 final.

<sup>14</sup> COM(2017) 0278 final.

<sup>15</sup> COM(2017) 277 final and COM(2017)281.

<sup>16</sup> Directive 2014/67/EU of the European Parliament and 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).

<sup>17</sup> 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).

<sup>18</sup> Regulation (EU) 589/2016 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).

<sup>19</sup> Decision (EU) 2016/344 of the European Parliament and the Council of 9 March 2016 on establishing a European Platform to enhance cooperation in tackling undeclared work (OJ L 65, 11.03.2016, p. 12).

The proposed Authority will be complementary and ensure consistency with the activities of the four agencies in the area of employment and social policy: the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Centre for the Development of Vocational Training (Cedefop), the European Training Foundation (ETD), and the European Agency for Safety and Health at Work (EU OSHA).

The proposed Regulation will contribute to the implementation of the principles and rights defined in the European Pillar of Social Rights, notably by promoting awareness of opportunities for training and life-long learning for mobile citizens as well as active support to employment and, more generally, through the efficient and effective enforcement of Union law on labour mobility and social security coordination as well as of collective agreements implementing such Union law.

- **Consistency with other Union policies**

This initiative complements the ongoing work to achieve the goals set out in the Political Guidelines: A New Start for Europe<sup>20</sup> in relation to 'Priority 4: a Deeper and Fairer Internal Market with a Strengthened Industrial Base', and in particular the Internal Market Strategy<sup>21</sup>. In practice, labour mobility is a valuable means of ensuring a more efficient allocation of resources between and within sectors, reducing unemployment and addressing skills mismatches. This initiative also complements Priority 1 of the Political Guidelines ('A New Boost for Jobs, Growth and Investment') by creating a more conducive regulatory environment to support a climate of entrepreneurship and job creation.

Furthermore, the Authority is consistent with the Digital Single Market strategic objective of modernising public administration, achieving cross-border interoperability and facilitating easy interaction with individuals. In this context, it complements the Commission's proposal for a single digital gateway<sup>22</sup> by aiming to facilitate the provision of high quality content and services to the public through the gateway, based on the existing Your Europe Portal. This initiative will also build on the experience of the informal problem solving network SOLVIT<sup>23</sup>. In particular, the initiative will feed into and complement where relevant the information and services provided through the single digital gateway. It will also promote the access to SOLVIT by individuals and employers to solve their differences and build on the evidence gathered from that source to identify recurring problems in the areas under its scope.

Moreover, this initiative will draw on good practices in the field of cross-border cooperation identified by the 'Border Focal Point'<sup>24</sup> so as to help unlock the full economic potential of EU border regions.

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<sup>20</sup> "A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change - Political Guidelines for the next European Commission" is available at: [http://ec.europa.eu/priorities/publications/president-junckers-political-guidelines\\_en](http://ec.europa.eu/priorities/publications/president-junckers-political-guidelines_en)

<sup>21</sup> An overview about the key priorities of the single market is available at: [http://ec.europa.eu/priorities/internal-market\\_en](http://ec.europa.eu/priorities/internal-market_en)

<sup>22</sup> Proposal COM(2017)256 for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012.

<sup>23</sup> Commission Recommendation 2013/461/EU of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2013, p. 10).

<sup>24</sup> Communication from the Commission to the Council and the European Parliament, Boosting growth and cohesion in EU border regions, COM(2017)534.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

### • Legal basis

The proposal is based on Articles 46, 48, 53(1), 62 and 91(1) TFEU, focusing on the free movement of workers, the coordination of social security systems, the take-up and pursuit of activities as self-employed persons, the freedom to provide services and common rules applicable to international transport.

### • Subsidiarity

The subsidiarity principle applies since the proposal does not fall under the exclusive competence of the EU. The objectives of the proposal cannot be sufficiently achieved by the Member States at national, regional or local level and can be better achieved at Union level for the following reasons:

- Providing high quality and up-to-date information and services to the public about their rights and obligations in cross-border situations needs to be coordinated at Union level in order to ensure a consistent, clear, and efficient approach.
- The application of Union law in the fields of cross border labour mobility and the coordination of social security systems relies on cooperation between Member States, meaning that no Member State can act alone.
- In order to increase synergies and support cooperation between Member States in the application of Union law across the fields of labour mobility and social security coordination, to ensure legal certainty for administrations and individuals alike and to arrive at a shared understanding of enforcement needs, it is also necessary to develop a coordinated and joint approach at Union level instead of relying on what can be a complex network of bilateral or multilateral agreements.

### • Proportionality

The initiative is a proportional response to the need for operational support and does not go beyond what is necessary to achieve this goal. It does not impose new obligations on Member States, individuals or employers; rather it focuses on supporting cross-border mobility and creating new opportunities. The proposal does not impinge on national decision-making, legislation, or enforcement activities, which remain the competence of Member States. Moreover, it leaves to a large extent to the discretion of Member States how they make use of the possibilities put in place by the initiative.

The Impact Assessment Report accompanying the proposed Regulation<sup>25</sup> outlines how the proposal achieves the best balance in meeting the objectives laid out by the initiative, ensuring benefits (positive impacts) for national authorities, individuals and employers without significantly increasing costs. It also reports on the overall support of stakeholders consulted in the lead-up to this proposal.

### • Choice of the instrument

The proposed instrument is a regulation on the establishment and functioning of a European Labour Authority. The regulation will build on the Common Approach on EU decentralised agencies endorsed in 2012 by the European Parliament, the Council and the Commission<sup>26</sup>. A

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<sup>25</sup> SWD(2018)68.

<sup>26</sup> Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies: [https://europa.eu/european-union/sites/europaeu/files/docs/body/joint\\_statement\\_and\\_common\\_approach\\_2012\\_en.pdf](https://europa.eu/european-union/sites/europaeu/files/docs/body/joint_statement_and_common_approach_2012_en.pdf).

regulation provides the legal certainty required for setting up the Authority, which could not be achieved by means of other legal instruments.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The proposal for a European Labour Authority was developed in synergy with ongoing legislative proposals in the related areas of posting, social security coordination, and the setting-up of a single digital gateway. In this regard, the proposal builds on the evidence collected in the preparatory process associated with these proposals, including impact assessments, as well as discussions during the legislative procedure. An important point which emerged from these processes was the need for operational support, in terms of improved cross-border cooperation and increased transparency and awareness, in order to improve the application and enforcement of these rules in the field of labour mobility.

Similarly, the proposal has taken note of the ongoing evaluation of the above-mentioned four EU Agencies in the employment policy area. That evaluation consists of an individual assessment of each agency, a comparative perspective and a prospective assessment regarding the future functioning of the four agencies. The four agencies have quite different functions than the proposed Authority since they are predominantly research-centred and do not have a cross-border focus. Nonetheless, certain preliminary elements of the evaluation have contributed to this proposal, most notably with regard to the organisation of the Authority's tasks and governance. The Impact Assessment Report accompanying this proposal examines the possible interaction between the proposed Authority and the existing four agencies. The periodic evaluation of the Authority will allow exploring further synergies and streamlining opportunities with Agencies active in the area of employment and social policy.

In its Special Report on the Free Movement of Workers, the European Court of Auditors<sup>27</sup> included recommendations to improve awareness about the tools of the Commission aimed to support persons who work abroad, to further enhance the EURES Portal, and to make better use of data in the design of initiatives and funding in this field. These aspects have fed into the preparation of the current proposal.

- **Stakeholder consultations**

In order to explore the views of stakeholders (including of citizens, national authorities, social partners and civil society) on the establishment of a European Labour Authority, the Commission organised an internet-based open public consultation on its main parameters from 27 November 2017 to 7 January 2018. The public consultation collected a total of 8,809 replies, out of which 8,420 were identical – stemming from a campaign initiated by the European Trade Union Confederation – and 389 were unique replies.

Overall, respondents to the public consultation expressed strong support for a new Authority, including when considering unique replies. The results largely supported the Commission's analysis of the main challenges. The vast majority of respondents (over seventy percent) were of the opinion that existing cooperation between national authorities is insufficient to ensure effective implementation of EU rules in the field of cross-border mobility. A similarly large

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<sup>27</sup> Special Report No 6/2018 “Free Movement of Workers – the fundamental freedom ensured but better targeting of EU funds would aid worker mobility” is available on the ECA website: <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=44964>



proportion of respondents considered that insufficient access to information and transparency on cross-border mobility rules is a problem for individuals and businesses. The possible functions proposed for the new Authority also received broad support, in particular supporting systematic cooperation and information exchange between national authorities.

The Commission also conducted a series of targeted consultations of EU bodies in the field of labour mobility and social security coordination. A dedicated hearing with social partners at EU level was organised on 11 December 2017 and a strategic dialogue meeting with EU level civil society organisations was held on 15 December 2017. In addition to oral contributions during dedicated meetings, written position papers were submitted by organisations and representatives taking part in these targeted consultations.

Targeted consultations yielded varied results. Overall respondents welcomed the creation of a new Authority which would focus on improving cooperation between national authorities by facilitating the exchange of information and good practice. At the same time, respondents underlined that the new Authority should fully respect Treaty-based national competencies, should not impose additional reporting requirements on Member States, and should not complicate or duplicate existing administrative structures. Many of the stakeholders taking part in the targeted consultation believed that the mandate and objectives of the future Authority needed to be specified along with its link to existing structures and instruments.

The details of stakeholders' views can be found in Annex 2 of the Impact Assessment Report. The outcomes of these consultations, including discussions within the Administrative Commission for the Coordination of Social Security Systems, the European Platform to enhance cooperation in tackling undeclared work, the Committee of Experts on Posting of Workers, the Technical Committee on the Free Movement of Workers, the European Network of Public Employment Services, and informal exchanges with Ministers during the lunch debate of the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council meeting of October 2017 were duly taken into account when preparing this proposal.

- **Collection and use of expertise**

In preparing this initiative and the Impact Assessment Report accompanying the proposed Regulation, the Commission made use of a wide range of secondary data published by the EU institutions (the European Parliament, the Commission and the Court of Auditors), dedicated Commission services (Your Europe Advice, SOLVIT), other international organisations (OECD), relevant academic research and studies by think-tanks. It also made use of its internal policy expertise and analytical capacities, including for the assessment of budgetary impacts.

The Commission also relied on primary data collected for the purpose of this initiative. It made use of existing Framework Contracts to gather evidence. This included an ad hoc request to the Network of legal experts on intra EU-mobility (FreSsco) on the capacities of labour inspectorates to deal with cross-border cases. It also included a request to a consulting service to develop case studies on the basis of qualitative interviews on resources for cross-border cooperation in the enforcement area.

- **Impact assessment**

In line with its policy on Better Regulation, the Commission carried out an Impact Assessment of potential policy and delivery options in preparation of this initiative. This work was supported by structured consultation within the Commission via an Inter-Service Steering Group.

The Impact Assessment was presented to and discussed with the Regulatory Scrutiny Board (RSB)<sup>28</sup>. Recommendations made by the RSB in its negative opinion of 9 February 2018 were addressed by elaborating further on the scope and rationale of the initiative and on the views of stakeholders, and developing further the analysis regarding the options under assessment and the way in which the initiative can fit into the existing governance structure on labour mobility and social security coordination, while at the same time fostering synergies and simplification. To address the reservations raised by the Board in its (positive) opinion of 21 February 2018, the Impact Assessment Report has further clarified how the setting up of a new Authority would reorganise the landscape of existing committees and structures with the aim of reducing complexity and avoiding duplications, addressed the potential relation of the new Authority with existing Union Agencies in the field of employment, and strengthened the explanation of the budget estimates associated with the preferred option<sup>29</sup>.

Three *policy options* were considered for the proposed Authority, namely, (1) a support option, (2) an operational option, and (3) a supervisory option. Each option proposed the same set of tasks for the Authority; however they varied in degree of powers attributed to it. The tasks proposed for the Authority are: (i) labour mobility services for individuals and businesses; (ii) cooperation and exchange of information between national authorities, (iii) support to joint inspections; (iv) labour market analyses and risk assessment; (v) support to capacity building; (vi) mediation between national authorities; (vii) facilitation of cooperation between relevant stakeholders in the event of cross-border labour market disruptions. Similarly, three *delivery options* were considered: (1) the Commission takes up some operational tasks and a European Network coordinating the existing EU labour mobility bodies is established; (2) a new Authority is established building on the existing EU mobility bodies, (3) a new Authority is established building on an existing EU Agency in the area of employment and social policy.

As part of the Impact Assessment, the policy and delivery options were assessed against the criteria of effectiveness, efficiency and coherence. As a result of this analysis, a combination of the operational option (policy option 2) to be performed through a new Authority that builds on existing EU level mobility bodies (delivery option 2) turned out to be the most efficient and effective way to meet the objectives of this initiative. It allows ensuring positive impacts for national authorities, individuals and employers without significantly increasing costs while overcoming the lack of operational support within the existing EU cooperation framework, which were two important concerns raised by stakeholders.

- **Regulatory fitness and simplification**

The proposal to establish the Authority will enhance the EU institutional landscape in the area of cross-border mobility, in order to improve and simplify current forms of cooperation, and eventually to facilitate the work of Member States and the Commission.

Today, this institutional landscape includes several EU structures ('EU bodies') where national administrations cooperate and exchange best practices. These EU bodies include: the EURES European Coordination Office, the Technical Committee and the Advisory Committee on the Free Movement of Workers, the Committee of Experts on Posting of Workers, the European Platform tackling undeclared work, the Administrative Commission for the Coordination of Social Security Systems and all its subcommittees (including the Technical Commission and

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<sup>28</sup> SEC(2018)144.

<sup>29</sup> See Annex 1 of the Impact Assessment Report SWD(2018)68 for details on the consultation of the Regulatory Scrutiny Board.

the Audit Board created by legislation, and a Conciliation Board set up by the Administrative Commission itself), and the Advisory Committee for the Coordination of Social Security Systems.

The new Authority will pool technical and operational tasks of the above-mentioned EU bodies into a permanent structure with a view to achieving improved and more efficient output on the basis of a strengthened forum for cooperation and joint investigative activities. In this context, the Authority will:

- take over the management of the EURES European Coordination Office, currently ensured by the Commission;
- replace the Technical Committee on the Free Movement of Workers;
- replace the Committee of Experts on Posting of Workers;
- replace the Technical Commission, the Audit Board, and the Conciliation Board of the Administrative Commission for the Coordination of Social Security Systems;
- replace the European Platform on tackling undeclared work.

In areas of social security coordination, the Authority will closely cooperate with the Administrative Commission for the Coordination of Social Security Systems regarding the regulatory task for which that committee remains competent. In addition, the Authority will benefit from any input that social partners' and governments' representatives at national level provide within the Advisory Committee for the Coordination of Social Security Systems and the Advisory Committee on the Free Movement of Workers.

This new setup will simplify the institutional landscape and foster synergies across the various aspects of cross-border mobility within the Authority's scope. This will further support the consistent and effective application of Union law, improve efficiency, and deliver more and better quality results compared to the current institutional setup, where EU bodies largely operate in silos, focus on a specific legal act or area under their responsibility, lack an operation dimension, mostly meet only a couple of times a year and carry out certain overlapping activities.

The initiative also aims to streamline the way in which information and services are provided to the public about rights, obligations and opportunities related to cross-border labour mobility, thus simplifying access to such information and services for individuals and employers.

The proposal aims to further enhance the digitalisation of procedures and is complementary to the existing and planned initiatives in the field, such as the electronic data exchange between national authorities in the field of social security coordination under implementation by the Electronic Exchange of Social Security Information (EESSI) system, the Internal Market Information (IMI) system, as well as the Your Europe Portal and the single digital gateway proposed by the Commission.

- **Fundamental rights**

As the Authority should contribute to the clear, fair and effective enforcement of Union rules on cross-border labour mobility and social security coordination it will support the protection and fruition of the fundamental rights covered by such rules, such as the free movement of persons and workers (Articles 15 and 45 of the Charter of Fundamental Rights of the

European Union, hereafter referred to as 'the Charter'), the right of access to placement services (Article 29 of the Charter), and the freedom to provide services (Article 16 of the Charter). It would also support the exercise of rights across borders in the field of fair and just working conditions, social security and healthcare (Articles 31, 34 and 35 of the Charter) and non-discrimination (Article 21 of the Charter).

With regards to the protection of personal data (Article 8 of the Charter), the provisions of Regulation (EU) No 679/2016 (General Data Protection Regulation)<sup>30</sup> and Regulation (EC) No 45/2001<sup>31</sup> apply to the processing of personal data under this proposal. In compliance with these rules, any processing of personal data will be limited to what is necessary and proportionate. Data will be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.

Along with the other initiatives proposed by the Commission under this mandate, this proposal also helps the Commission and the Member States implement the principles and rights defined in the European Pillar of Social Rights that support fair and well-functioning labour markets and welfare systems.

#### **4. BUDGETARY IMPLICATIONS**

Under the preferred combined option identified in the impact assessment, the EU budgetary total costs of the Authority are estimated to be 50.9 million per year at cruising speed expected to be reached by 2023. The costs under this Multiannual Financial Framework (2019-2020) will be met partially through redeployment from existing activities currently implemented under the EU Programme for Employment and Social Innovation (EaSI) and autonomous lines under Employment and Transport remit (70%), partially through the mobilisation of the margin of Heading 1a (30%). Existing activities shifted to the Authority will not be discontinued; their implementation will be shifted from the Commission to the Authority as soon as this becomes operational. As regards staff, the Authority would require 69 establishment plan posts, 60 seconded national experts and 15 contract agents. Details on the financial and staff needs can be found in the attached Legislative Financial Statements. There will be minimum requirements on national budgets through the impact of the proposal on the EU budget. It is not possible to exactly quantify the impacts on administrations, but case studies indicate that such impact will be positive as better rule enforcement will allow national enforcement bodies to capture previously unpaid social contributions and benefit from operational support from the Authority.

The proposal includes an evaluation clause to assess the mandate and tasks of the Authority every 5 years, providing for the possibility to progressively extend the scope of its activities and to scale-up the Authority.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

A dedicated monitoring framework described in the Impact Assessment Report accompanying the proposal will inform, on the basis of a number of indicators, on progress achieved in

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<sup>30</sup> 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).

<sup>31</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

attaining the objectives of the Regulation. The requirements and timeline of the monitoring framework will be subject to further adjustment in the course of the legislative and implementing process.

The Commission will evaluate the Regulation five years after its entry into force in line with the requirements of the Financial Regulation<sup>32</sup> and Better Regulation Guidelines<sup>33</sup>. The evaluation will particularly focus on the criteria set out in the Better Regulation Guidelines, i.e. effectiveness, efficiency, coherence, EU value added and relevance, in view of any review or update of the Regulation.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I presents the main principles governing the establishment and functioning of the future Authority.

Article 1 sets out the subject matter and policy areas that fall under its scope.

Article 2 contains the main objectives of the Authority, with its point a) explaining the objectives towards the public including individuals and employers, point b) explaining the role towards Member States, and point c) referring to its role to mediate and facilitate the solution of cross-border disputes between national authorities or labour market disruptions.

Article 3 provides for the Authority's legal status.

Article 4 will indicate the seat of the future Authority, once it has been decided by the Member States before the end of the legislative procedure leading to the adoption of this proposal.

Chapter II outlines the tasks of the future Authority, listed in Article 5, with each task described in more detail in dedicated Article(s).

Article 6 provides details about the way in which the Authority will improve the quality and access of information about the rights and obligations in the field of labour mobility offered to individuals and employers.

Article 7 sets out how the Authority will facilitate the access of individuals and employers to labour mobility initiatives and services, defining its specific tasks in this respect. It also sets out the Authority's role in managing the EURES European Coordination Office.

Article 8 on cooperation and exchange of information between Member States provides for facilitating the cooperation and speeding up of exchanges between national authorities on cross border cases (described in paragraph 1), describes the function the Authority will play in supporting the Administrative Commission for the Coordination of Social Security Systems set up by Regulation (EC) No 883/2004 on financial matters related to the implementation of that Regulation (paragraph 2), and underlines the role of the Authority in promoting the use of electronic tools and digitalising procedures (paragraphs 3 and 4).

Articles 9 and 10 explain the way in which the Authority is to coordinate concerted and joint inspections across borders: Article 9 defines the details for establishing concerted and joint inspections, it explains that such actions will take place only with agreement of the Member States concerned, either on the request of the national authorities, or on the initiative of the Authority (paragraph 1), and requires for Member States which choose not to carry out a

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<sup>32</sup> 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 07.12.2013, p. 42).

<sup>33</sup> Better Regulation Guidelines, SWD (2017) 350.

concerted or joint inspection to explain the reasons of their decision (paragraph 2), enabling Member States to carry out joint inspections also in cases where not all Member States concerned by the concerted or joint inspection decided to participate (paragraph 3). Article 10 sets out the practical arrangements for carrying out a concerted or joint inspection under the coordination of the Authority.

Article 11 outlines the analytical and risk assessment function of the Authority regarding cross-border aspects of labour mobility, setting out the details of the activities and context under which such work will be carried out.

Article 12 mandates the Authority to support Member States in strengthening their capacity, in order to promote consistent, fair and effective application and enforcement of relevant Union law, and defines specific activities for the Authority in order to fulfil this task.

Article 13 on mediation describes the task of the Authority in view of solving disputes between Member States.

Article 14 defined the role of the Authority in fostering cooperation in case of cross-border labour market disruptions.

Article 15 provides for the cooperation of the Authority with other decentralised Union agencies.

Article 16 ensures that all work of the Authority focusing on digitalisation of procedures used in the course of exchange of information between Member States will follow the principles of the relevant interoperability framework and reference architecture.

Chapter III describes the organisation of the Authority, defining the details of its structure.

Article 17 provides for the administrative and management structure of the Authority comprising a Management Board, an Executive Director and a Stakeholder Group. It also establishes the possibility for the Authority to create specific working groups and panels in order to tackle specific tasks.

Articles 18 to 22 set out the detailed rules for the functioning of the Management Board. This section provides for the composition, functions, rules regarding the Chairperson, meetings and voting rules of the Management Board.

Article 23 outlines the responsibilities of the Executive Director.

Article 24 provides for the creation of a Stakeholder Group attached to the Authority, in order to provide for a forum for consultation with stakeholders on topics related to the tasks of the Authority.

Chapter IV includes provisions on the establishment and structure of the budget of the Authority.

Chapter V defines the provisions governing the staffing of the Authority, including general rules on staff, the Executive Director, National Liaison Officers, and seconded national experts and other staff.

Chapter VI outlines general and final provisions, including privileges and immunities applicable to staff of the Authority, language arrangements, rules on transparency and communication, on combating fraud, ensuring security and protection of information as well as liability. It provides that the Commission will assess periodically the Authority's performance. Provisions on administrative inquiries of the European Ombudsman, as well as cooperation with third countries are also contained in this chapter. The headquarters

agreements and operating conditions, as well as the commencement of the Authority's activities are defined in this Chapter.

Article 46 provides for amendments to Regulation (EC) No 883/2004.

Article 47 provides for amendments to Regulation (EC) No 987/2009.

Article 48 provides for amendments to Regulation (EU) No 492/2011.

Article 49 provides for amendments to Regulation (EU) 2016/589.

Article 50 provides for the repeal of Decision 2009/17/EC and Decision (EU) 2016/344.

Article 51 deals with the entry into force of this Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**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, Article 48, Article 53(1), Article 62 and Article 91(1) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>34</sup>,

Having regard to the opinion of the Committee of the Regions<sup>35</sup>,

Acting in accordance with the ordinary legislative procedure,

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 TEU, the Union is to work for a highly competitive social market economy, aiming at full employment and social progress and promote social justice and protection. 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 Social 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

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<sup>34</sup> OJ C [...], [...], p. [...].

<sup>35</sup> OJ C [...], [...], p. [...].



systems<sup>36</sup>, by protecting workers from health risks in the workplace<sup>37</sup>, by ensuring fair treatment for all in the Union labour market through modernised rules on posting of workers<sup>38</sup>, and by further improving cross-border enforcement of the Union law.

- (5) A European Labour Authority (the ‘Authority’) should be established in order to help strengthen fairness and trust in the Single Market. To that effect, the Authority should support 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 to ensure the effective application of the Union law in these areas, and mediate and facilitate a solution in case of cross-border disputes or labour market disruptions.
- (6) The Authority should perform its activities in the areas of cross-border labour mobility 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. In cases where the Authority, in the course of the performance of its activities, becomes aware of suspected irregularities, including in areas of Union law beyond its scope, such as violations of working conditions, health and safety rules, or the employment of illegally staying third-country nationals, it should be able to report them and cooperate on these matters with the Commission, competent Union bodies, and national authorities where appropriate.
- (7) The Authority should contribute to facilitating the free movement of workers governed by Regulation (EU) No 492/2011 of the European Parliament and of the Council<sup>39</sup>, Directive 2014/54/EU of the European Parliament and the Council<sup>40</sup> and Regulation (EU) 2016/589 of the European Parliament and the Council<sup>41</sup>. It should facilitate the posting of workers governed by Directive 96/71/EC of the European Parliament and the Council<sup>42</sup> and Directive 2014/67/EU of the European Parliament and the Council<sup>43</sup>, including by supporting the enforcement of those provisions implemented through universally applicable collective agreements in line with the practices of Member States. It should also help the coordination of social security systems governed by Regulation (EC) No 883/2004 of the European Parliament and the Council<sup>44</sup>,

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<sup>36</sup> 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) 815 final).

<sup>37</sup> 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) 11 final).

<sup>38</sup> 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) 128 final).

<sup>39</sup> 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).

<sup>40</sup> 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).

<sup>41</sup> 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).

<sup>42</sup> 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).

<sup>43</sup> 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).

<sup>44</sup> 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).

Regulation (EC) No 987/2009 of the European Parliament and the Council<sup>45</sup>, Regulation (EU) No 1231/2010 of the European Parliament and the Council<sup>46</sup>; as well as Council Regulation (EC) No 1408/71<sup>47</sup> and Council Regulation (EC) No 574/72<sup>48</sup>.

- (8) In certain instances, sector-specific Union law has been adopted in order to respond to specific needs in that sector, such as the area of international transport. The Authority should also deal with the cross-border aspects of the application of such sector-specific Union law, in particular Regulation (EC) No 561/2006 of the European Parliament and the Council<sup>49</sup>, Directive 2006/22/EC of the European Parliament and the Council<sup>50</sup>, Regulation (EC) No 1071/2009 of the European Parliament and the Council<sup>51</sup> and Directive (Amending Directive 2006/22/EC – COM(2017)278)<sup>52</sup>.
- (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, and economically non-active persons; this should cover both Union citizens and third-country nationals who are legally resident in the Union, such as posted workers, EU Blue Card holders, intra-corporate transferees or long-term residents, as well as their family members.
- (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.
- (11) To ensure they can benefit from a fair and effective internal market, the Authority should promote opportunities for individuals and employers to be mobile or provide services and recruit anywhere within the Union. This includes supporting the cross-border mobility of individuals by facilitating access to cross-border mobility services, such as the cross-border matching of jobs, traineeships and apprenticeships and by promoting 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

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<sup>45</sup> 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).

<sup>46</sup> 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).

<sup>47</sup> 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).

<sup>48</sup> 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).

<sup>49</sup> 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).

<sup>50</sup> 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).

<sup>51</sup> 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).

<sup>52</sup> COM(2017)278 – Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector.

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 future single digital gateway<sup>53</sup>.

- (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)<sup>54</sup>, the European Enterprise Network<sup>55</sup>, the Border Focal Point<sup>56</sup> and SOLVIT<sup>57</sup>, 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, and national contact points designated under Directive 2011/24/EU of the European Parliament and of the Council<sup>58</sup> to provide information on healthcare. The Authority should also explore synergies with the proposed European services e-card<sup>59</sup>, notably with regard to those cases in which Member States opt for the submission of declarations regarding posted workers through the e-card platform. The Authority should replace the Commission in managing the European network of employment services ('EURES') European Coordination Office 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.
- (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 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. These 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 of Member States concerned, which

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<sup>53</sup> Regulation [*Single Digital Gateway* – COM(2017)256]

<sup>54</sup> 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).

<sup>55</sup> European Enterprise Network, <https://een.ec.europa.eu/>

<sup>56</sup> Communication from the Commission to the Council and the European Parliament, Boosting growth and cohesion in EU border regions, COM(2017) 534.

<sup>57</sup> Commission Recommendation of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2011, p. 10).

<sup>58</sup> Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

<sup>59</sup> COM(2016) 824 final and COM(2016) 823 final.

should follow up on the outcomes of the concerted and joint inspections according to national law.

- (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 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 recurring problems encountered by individuals and businesses in the exercise of their rights in the areas under the scope of the Authority. 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 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, 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.
- (17) The Authority should provide a platform for resolving disputes between Member States in relation to the application of Union law that falls within its scope. It should build on dialogue and conciliation mechanisms that are currently in place in the area of social security coordination, which are valued by Member States<sup>60</sup> and their importance is recognised by the Court of Justice<sup>61</sup>. Member States should be able to refer cases to the Authority for mediation according to standard procedures put in place for this purpose. The Authority 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.
- (18) To facilitate the management of labour market adjustments, the Authority should facilitate cooperation among relevant stakeholders in order to address labour market disruptions affecting more than one Member State, such as cases of restructuring or major projects impacting employment in border regions.

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<sup>60</sup> Council, Partial general approach of 26 October 2017 on the proposal for a Regulation 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 13645/1/17.

<sup>61</sup> Case C-236/88 EU:C:1990:303, paragraph 17; Case C-202/97 EU:C:2000:75, paragraphs 57-58; Case C-178/97 EU:C:2000:169, paragraphs 44-45; Case C-2/05 EU:C:2006:69, paragraphs 28-29; Case C-12/14 EU:C:2016:135, paragraphs 39-41; Case C-359/16 EU:C:2018:63, paragraphs 44-45.

- (19) The European Interoperability Framework (EIF)<sup>62</sup> 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 solutions<sup>63</sup>. Both the EIF and the EIRA should guide and support the Authority when considering interoperability matters.
- (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.
- (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 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.
- (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. 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.
- (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

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<sup>62</sup> Communication from the Commission to the European Parliament, the Council, the European Economic Social Committee and the Committee of the Regions: European Interoperability Framework – Implementation Strategy - COM(2017) 134 final.

<sup>63</sup> 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 (ISA<sup>2</sup> programme) as a means for modernising the public sector (OJ L 318, 4.12.2015, p. 1).

Council<sup>64</sup>, or Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>65</sup>, whichever is applicable. This includes putting in place appropriate technical and organisational measures to comply with the obligations imposed by these Regulations, in particular those 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 Council<sup>66</sup> 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 Council<sup>67</sup> 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.
- (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).
- (31) In order to bring an operational dimension to the activities of existing bodies in the areas of cross-border labour mobility, 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

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<sup>64</sup> 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).

<sup>65</sup> 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) 8 final.

<sup>66</sup> 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).

<sup>67</sup> 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).

Commission Decision 2009/17/EC<sup>68</sup> and the European Platform to enhance cooperation in tackling undeclared work set up by Decision (EU) 2016/344 of the European Parliament and the Council<sup>69</sup>. With the establishment of the Authority, those bodies should cease to exist.

- (32) The Authority should complement the activities of the Administrative Commission for the Coordination of Social Security Systems created by Regulation (EC) No 883/2004 ('the Administrative Commission') in so far as it exercises regulatory tasks related to the application of Regulations (EC) No 883/2004 and (EC) No 987/2009. The Authority should however take over operational tasks currently carried out under the framework of the Administrative Commission, such as providing a mediation function between Member States, ensuring a forum for handling financial matters related to the application of Regulations (EC) No 883/2004 and (EC) No 987/2009, replacing the function of the Audit Board set up by those Regulations, as well as matters related to electronic data exchange and IT tools to facilitate the application of those Regulations, replacing the function of the Technical Commission for Data Processing set up by those Regulations.
- (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, (EC) No 987/2009, (EU) No 492/2011, and (EU) 2016/589 should be amended, and Decision 2009/17/EC and Decision (EU) 2016/344 should be repealed.
- (35) Respect for the diversity of national industrial relations systems as well as the autonomy of social partners is 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 objectives of this Regulation to support the free movement of workers and services and to contribute to strengthening fairness in the internal market 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 of the Treaty on European Union. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (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 of the Treaty on European Union,

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<sup>68</sup> 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).

<sup>69</sup> 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).

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 matters relating to cross-border labour mobility and the coordination of social security systems within the Union.

#### *Article 2*

##### *Objectives*

The objective of the Authority shall be to contribute to ensuring fair labour mobility in the internal market. To this end, the Authority shall:

- (a) facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services;
- (b) support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections;
- (c) mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

#### *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.

#### *Article 4*

##### *Seat*

The seat of the Authority shall be [x].



## 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 by individuals and employers on rights and obligations in cross-border situations as well as access to cross-border labour mobility services, in accordance with Articles 6 and 7;
- (b) facilitate cooperation and the exchange of information between national authorities with a view to the effective 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 enforcement of relevant Union law, in accordance with Article 12;
- (f) mediate in disputes between Member States' authorities on the application of relevant Union law, in accordance with Article 13;
- (g) facilitate cooperation between relevant stakeholders in the event of cross-border labour market disruptions, in accordance with Article 14.

#### *Article 6*

##### *Information on cross-border labour mobility*

The Authority shall improve the availability, quality and accessibility of information offered to individuals and employers to facilitate labour mobility across the Union, in accordance with Regulation (EU) 589/2016 on EURES and Regulation [Single Digital Gateway – COM(2017)256]. To that end, the Authority shall:

- (a) provide relevant information on the rights and obligations of individuals in cross-border labour mobility situations;
- (b) promote opportunities to support the labour mobility of individuals, including through guidance on access to learning and language training;
- (c) provide relevant information to employers on labour rules, and the living and working conditions applicable to workers in cross-border labour mobility situations, including posted workers;
- (d) support Member States in complying with the obligations on the dissemination of and access to information relating to the free movement of workers as laid down in Article 6

of Directive 2014/54/EU, and to the posting of workers as laid down in Article 5 of Directive 2014/67/EU;

- (e) support Member States in improving the accuracy, completeness and user-friendliness of relevant national information services, in accordance with the quality criteria laid down in Regulation [Single Digital Gateway – COM(2017)256];
- (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, while fully respecting Member States' competences.

## *Article 7*

### *Access to cross-border labour mobility services*

1. The Authority shall provide services to individuals and employers to facilitate labour mobility across the Union. To that end, the Authority shall:
  - (a) promote the development of initiatives supporting the cross-border mobility of individuals, including targeted mobility schemes;
  - (b) enable the cross-border matching of job, traineeship, and apprenticeship vacancies with CVs and applications for the benefit of individuals and employers, particularly via EURES;
  - (c) cooperate with other Union initiatives and networks, such as the European Network of Public Employment Services, the European Enterprise Network and the Border Focal Point, in particular to identify and overcome cross-border obstacles to labour mobility;
  - (d) facilitate cooperation between competent services at the national level designated in accordance with Directive 2014/54/EU to provide information, guidance and assistance to individuals and employers on cross-border mobility, and the national contact points designated in accordance with Directive 2011/24/EU to provide information on healthcare.
2. The Authority shall manage the EURES European Coordination Office and ensure that it fulfils 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 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, upon request of national authorities, and in order to speed up exchanges between them, in particular:

- (a) support national authorities in identifying the relevant contact points of national authorities in other Member States;
  - (b) 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 and share best practices;
  - (d) facilitate cross-border enforcement procedures of penalties and fines;
  - (e) report to the Commission on a quarterly basis about unresolved requests between Member States, and if considered necessary, refer those to mediation in accordance with Article 13.
2. The Authority shall support the work of the Administrative Commission for the Coordination of Social Security Systems with handling financial matters related to social security coordination, in accordance with Article 74 of Regulation (EC) No 883/2004 and Articles 65, 67 and 69 of Regulation (EC) No 987/2009.
  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 and the Electronic Exchange of Social Security Information (EESSI) system.
  4. The Authority shall encourage the use of innovative approaches to effective and efficient cross-border cooperation, and explore the potential use of electronic exchange mechanisms between the Member States to facilitate the detection of fraud, providing reports to the Commission with a view to their further development.

#### *Article 9*

##### *Coordination of concerted and joint inspections*

1. At the request of one or several Member States, the Authority shall coordinate concerted or joint inspections in the areas under the scope of the Authority's competences. The request may be submitted by one or several Member States. The Authority may also suggest to the authorities of the Member States concerned that they perform a concerted or joint inspection.
2. Where the authority of a Member State decides not to participate in or carry out the concerted or joint inspection referred to paragraph 1, it shall inform the Authority in writing of the reasons for its decision duly in advance. In such cases, the Authority shall inform the other national authorities concerned.
3. The organisation of a concerted or joint inspection shall be subject to the prior agreement of all participating Member States via their National Liaison Officers. In the event that one or more Member States refuse to take part in the concerted or joint inspection, the other national authorities may, where appropriate, only carry out the envisaged concerted or joint inspection in the participating Member States. The Member States that declined to participate in the inspection shall keep information about the envisaged inspection confidential.

## *Article 10*

### *Arrangements for concerted and joint inspections*

1. An agreement for setting up a joint inspection ('the joint inspection agreement') between the participating Member States and the Authority shall set out the conditions for carrying out such an exercise. The joint inspection agreement may include provisions which enable joint inspections, once agreed and planned, to take place at short notice. The Authority shall establish a model agreement.
2. Concerted and joint inspections and their follow-up shall be carried out in accordance with the national law of the Member States concerned.
3. The Authority shall provide logistical and technical support, which may include translation and interpretation services, to Member States carrying out concerted or joint inspections.
4. Staff of the Authority 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.
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.
6. Information on concerted and joint inspections shall be included in quarterly reports to be submitted to the Management Board. 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, including beyond the scope of its competences, it shall report those suspected irregularities to the Commission and authorities in the Member State concerned, where appropriate.

## *Article 11*

### *Cross-border labour mobility analyses and risk assessment*

1. The Authority shall assess risks and carry out analyses regarding cross-border labour flows, such as labour market imbalances, sector-specific threats and recurring problems encountered by individuals and employers in relation to cross-border mobility. For that purpose, the Authority shall ensure complementarity with, and draw on the expertise of, other Union agencies or services, including in the areas of skills forecasting and health and safety at work. Upon a request by the Commission, the Authority may carry out focused in-depth analyses and studies to investigate specific labour mobility issues.
2. The Authority shall organise peer reviews amongst national authorities and services 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. The Authority shall regularly report its findings to the Commission, as well as directly to the Member States concerned, outlining possible measures to address identified weaknesses.
- 4. The Authority shall 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. 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 covered by this Regulation. The Authority shall, in particular, carry out the following activities:

- (a) develop common guidelines for use by Member States, including guidance for inspections in cases with a cross-border dimension, as well as shared definitions and common concepts, building on relevant work at the 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 and dedicated training material;
- (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 13*

### *Mediation between Member States*

- 1. In the event of disputes between Member States regarding the application or interpretation of Union law in areas covered by this Regulation, the Authority may perform a mediation role.
- 2. Upon request of one of the Member States concerned by a dispute, the Authority shall launch a mediation procedure before its Mediation Board set up for this purpose in accordance with Article 17(2). The Authority may also launch a mediation procedure on its own initiative before the Mediation Board, including on the basis of a referral from SOLVIT, subject to the agreement of all Member States concerned by that dispute.
- 3. When presenting a case for mediation by the Authority, Member States shall ensure that all personal data related to that case is anonymised and the Authority shall not process the

personal data of individuals concerned by the case at any point in the course of the mediation procedure.

4. Cases in which there are ongoing court proceedings at national or Union level shall not be admissible for mediation by the Authority.
5. Within three months of the conclusion of the mediation by the Authority, the Member States concerned shall report to the Authority on measures they have taken in order to follow-up on it or on the reasons for not taking action in the event that they did not follow-up.
6. The Authority shall report to the Commission on a quarterly basis about the outcomes of the mediation cases it handles.

#### *Article 14*

##### *Cooperation in case of cross-border labour market disruptions*

At the request of the national authorities, the Authority may facilitate cooperation between relevant stakeholders in order to address labour market disruptions affecting more than one Member State, such as large-scale restructuring events or major projects impacting employment in border regions.

#### *Article 15*

##### *Cooperation with other agencies*

The Authority shall establish cooperation arrangements with other decentralised Union agencies where appropriate.

#### *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<sup>70</sup> and by the European Interoperability Reference Architecture referred to in Decision (EU) 2015/2240 of the European Parliament and of the Council<sup>71</sup>.

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<sup>70</sup> Communication from the Commission to the European Parliament, the Council, the European Economic Social Committee and the Committee of the Regions: European Interoperability Framework – Implementation Strategy - COM(2017) 134 final.

<sup>71</sup> 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 (ISA<sup>2</sup> 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, including a Mediation Board in order to fulfil its tasks in accordance with Article 13 of this Regulation, and a dedicated group for the purpose of handling financial matters related to the application of Regulations (EC) No 883/2004 and (EC) No 987/2009, as referred to in Article 8(2) of this Regulation.

The rules of procedure of such working groups and panels shall be set out by the Authority following consultation of the Commission. In matters related to social security coordination, the Administrative Commission for the Coordination of Social Security Systems shall also be consulted.

## SECTION 1

### MANAGEMENT BOARD

#### *Article 18*

##### *Composition of the Management Board*

1. The Management Board shall be composed of one senior representative from each Member State and two representatives of the Commission, all of whom have voting rights.
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 in light of their knowledge in the fields referred to in Article 1(2), taking into account relevant managerial, administrative and budgetary skills.

The Commission shall appoint the members who are to represent it.

The Member States and the Commission shall make efforts to limit the turnover of their representatives on the Management Board in order to ensure continuity of the Board's work.

All parties shall aim to achieve balanced representation between men and women on the Management Board.

4. The term of office for members and their alternates shall be four years. That term shall be extendable.
5. Representatives from third countries, which are applying the Union law in areas covered by this Regulation, may participate in the meetings of the Management Board as observers.

## *Article 19*

### *Functions of the Management Board*

1. The Management Board shall, in particular:
  - (a) 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. 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 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;
  - (i) adopt the rules of procedures of the working groups and panels of the Authority set up in accordance with Article 17(2);
  - (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 Employment<sup>72</sup> ("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;

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<sup>72</sup> 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).



- (l) establish, where appropriate, an internal audit capacity;
  - (m) appoint the Executive Director, and where necessary extend his or her term of office or remove him or her 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 said members and alternates;
  - (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 defining 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 latter 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 four 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.
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 whose opinion may be of interest to attend its meetings as an observer.
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 point (b) of Article 19(1) and to Article 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.
3. The Chairperson shall take part in the voting.
4. The Executive Director shall not take part in the voting.
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. 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, the Executive Director shall be responsible for:
  - (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 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 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 and implementing its budget;
  - (k) implementing measures established by the Management Board to comply with obligations on data protection imposed by Regulation (EC) No 45/2001.

5. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States. Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and the duplication of administrative functions of the Authority. A headquarters agreement with the Member State(s) concerned 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 may, in particular, submit opinions and advice to the Authority on issues related to the application and enforcement of Union law in the areas covered by this Regulation.
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 six representatives of Union-level social partners equally representing trade unions and employer's organisations, and two representatives of the Commission.
5. The members of the Stakeholder Group shall be nominated by their respective organisations and appointed by the Management Board. The Management Board shall also appoint alternate members, in accordance with the same conditions as members, who 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.
7. The Authority shall make public the opinions and advice 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 1271/2013<sup>73</sup> and taking into account guidelines set by the Commission.
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 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.

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.

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<sup>73</sup> Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

## Article 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.
2. The Management Board shall, on the basis of the provisional draft estimate referred to in paragraph 1, adopt a draft estimate of the Authority's revenue and expenditure for the following financial year.
3. The draft estimate of the Authority's revenue and expenditure shall be sent 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.
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 to the Authority.
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 of:
  - (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 its observations 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 Servants<sup>74</sup> 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 Management Board shall appoint the Executive Director from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

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<sup>74</sup> OJ L 56, 4.3.1968, p. 1.



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. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Authority's future tasks and challenges.
5. The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 4, may extend the term of office of the Executive Director once, for no more than five years.
6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the cumulative period.
7. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.
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 to be seconded 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, in particular by facilitating the cooperation and exchange of information set out in Article 8(1) and by acting as contact points of the Authority 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 have competence under their Member States' national law to request information from the authorities concerned.

### *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 Council Regulation No 1<sup>75</sup> shall apply to the Authority.
2. The translation services required for the functioning of the Authority shall be provided by the Translation Centre of the Bodies of the European Union.

### *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.
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 and communication and dissemination plans adopted by the Management Board.

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<sup>75</sup> 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).

## 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 (EC) No 1073/1999 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) 2015/443<sup>76</sup> and 2015/444<sup>77</sup>.

## 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.

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<sup>76</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p.41).

<sup>77</sup> 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).

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.

#### *Article 41*

##### *Evaluation*

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 possible need to modify the mandate of the Authority, and the financial implications of any such modification, including by further synergies and streamlining with Agencies active in the area of employment and social policy.
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 to achieve the objectives set out in this Regulation, and without prejudice to the respective competences of the Member States and the institutions of the Union, the Authority may cooperate with the national authorities of third countries to which the relevant Union law on labour mobility and social security coordination applies.

To that end, the Authority may, subject to prior approval by the Commission, establish working arrangements with the authorities of third countries. Those arrangements shall not create legal obligations incumbent on the Union and 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 of paragraph 1, 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 undertaken 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, 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 within a year 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 has the operational capacity to implement its own budget. 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 [regarding provisions currently under revision the Commission will align its proposal after adoption of the revised regulation]*

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

- (1) in Article 1, the following point (na) is inserted:  
“(na) ‘European Labour Authority’ means the body established by [*Regulation Establishing the Authority*] and referred to in Article 74.”;
- (2) in Article 72, point (g) is replaced by the following:  
“(g) establish the factors to be taken into account for drawing up accounts relating to the costs to be borne by the institutions of the Member States under this Regulation and to adopt the annual accounts between those institutions, based on the report of the European Labour Authority referred to in Article 74.”;
- (3) Article 73 is deleted;
- (4) Article 74 is replaced by the following:

*“Article 74*

**The European Labour Authority**

1. The European Labour Authority shall support the implementation of this Regulation in accordance with its tasks set out in [*Regulation establishing the Authority*].
2. To support the work of the Administrative Commission with financial matters, the European Labour Authority shall:
- (a) verify the method of determining and calculating the annual average costs presented by Member States;
- (b) collect the necessary data and carry out the calculations required for establishing the annual statement of claims of each Member State;
- (c) give the Administrative Commission periodic accounts of the results of the implementation of this Regulation and of the Implementing Regulation, in particular as regards the financial aspect;
- (d) provide the data and reports necessary for decisions to be taken by the Administrative Commission pursuant to point (g) of Article 72;
- (e) make any relevant suggestions it may have to Administrative Commission, including those concerning this Regulation, in accordance with points (a), (b) and (c);

- (f) carry out all work, studies or assignments on matters referred to it by the Administrative Commission.

3. In order to support the work of the Administrative Commission on technical matters, the European Labour Authority shall propose to the Administrative Commission common architecture rules for the operation of data processing services, in particular on security and the use of standards. The European Labour Authority shall deliver reports and a reasoned opinion before decisions are taken by the Administrative Commission pursuant to point (d) of Article 72.

4. In the event of disputes between institutions or authorities regarding the application of this Regulation and the Implementing Regulation, the European Labour Authority shall mediate in accordance with *[Article 13 on mediation of the Regulation establishing the Authority]*. ”;

- (5) in Article 76(6), the second sentence is replaced by the following:

“If a solution cannot be found within a reasonable period, the authorities concerned may call on the European Labour Authority to intervene.”.

#### *Article 47*

*Amendments to Regulation (EC) No 987/2009 [regarding provisions currently under revision the Commission will align its proposal after adoption of the revised regulation]*

Regulation (EC) No 987/2009 is amended as follows:

- (1) in Article 1(2), point (f) is replaced by the following:

“(f) ‘European Labour Authority’ means the body referred to in Article 74 of the basic Regulation.”;

- (2) in Article 5, paragraph 4 is replaced by the following:

“4. Where no agreement is reached between the institutions concerned, the matter may be brought before the European Labour Authority by the competent authorities no earlier than one month following the date on which the institution that received the document submitted its request. The European Labour Authority shall endeavour to reconcile the points of view in accordance with the procedures set out in *[Regulation establishing the Authority – Article 13 on mediation]*.”;

- (3) in Article 6, paragraph 3 is replaced by the following:

“3. Where no agreement is reached between the institutions or authorities concerned, the matter may be brought before the European Labour Authority by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2 arose. The European Labour Authority shall seek to reconcile the points of view line with the procedures set out in *[Regulation establishing the Authority – Article 13 on mediation]*.”;

- (4) Article 65 is replaced by the following:

“Article 65

**Notification of annual average costs**

1. The annual average cost per person in each age group for a specific year shall be notified to the European Labour Authority at the latest by the end of the second year following the year in question.

2. The annual average costs notified in accordance with paragraph 1 shall be published each year in the *Official Journal of the European Union* after approval by the Administrative Commission.

3. Where a Member State is unable to notify the average costs for a specific year by the deadline referred to in paragraph 1, it shall by the same deadline ask permission from the Administrative Commission and the European Labour Authority to use the annual average costs for that Member State as published in the *Official Journal of the European Union* for the year preceding the specific year in which notification is outstanding. When seeking such permission, the Member State shall be required to explain the reasons as to why it is unable to notify the annual average costs for the year in question. If the Administrative Commission, having considered the opinion of the European Labour Authority, approves the request of the Member State, those annual average costs shall be republished in the *Official Journal of the European Union*.

4. The derogation in paragraph 3 shall not be granted for consecutive years.”;

(5) in Article 67, paragraph 7 is replaced by the following:

“7. The European Labour Authority shall facilitate the final closing of accounts in cases where a settlement cannot be reached within the period referred to in paragraph 6, and, upon a reasoned request by one of the parties, shall give its opinion on a dispute within six months following the month in which the matter was referred to it.”;

(6) Article 69 is replaced by the following:

“Article 69

#### **Statement of annual accounts**

1. The Administrative Commission shall establish the claims situation for each calendar year in accordance with point (g) of Article 72 of the basic Regulation, on the basis of the European Labour Authority’s report. To that end, the liaison bodies shall notify the European Labour Authority, by the deadlines and in accordance to the procedures laid down by the latter, the amount of the claims introduced, settled or contested (creditor position) and the amount of claims received, settled or contested (debtor position).

2. The Administrative Commission may perform any appropriate checks on the statistical and accounting data used as the basis for drawing up the annual statement of claims provided for in paragraph 1 in order, in particular, to ensure that they comply with the rules laid down under this Title.”.

*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;

(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 (8) 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 Labour Authority 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 (e) is added:
- "(e) the Commission.";
- (5) Article 8 is amended as follows:
- (a) paragraph 1 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.";
- (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 2009/17/EC and Decision (EU) 2016/344 are repealed.

References to Decision 2009/17/EC and Decision (EU) 2016/344 shall be construed as references to this Regulation.

*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*  
*The President*

*For the Council*  
*The President*

## Annex - Legislative financial statement 'Agencies'

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on [body]'s appropriations*
  - 3.2.3. *Estimated impact on [body]'s human resources*
  - 3.2.4. *Compatibility with the current multiannual financial framework*
  - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority

#### 1.2. Policy area(s) concerned

04: Employment, social affairs and inclusion  
04 03: Employment, social affairs and inclusion  
04 03 15: European Labour Authority

#### 1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>78</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objective(s)

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The objective of the European Labour Authority is to contribute to ensuring fair labour mobility in the internal market, focusing on Union rules in the areas of cross-border labour mobility and coordination of social security systems within the Union.

This directly contributes to the Commission's political priority on 'A deeper and fairer internal market with a strengthened industrial base' (Priority 4 of the Political Guidelines A New Start for Europe<sup>79</sup>), and it complements the priority on 'A New Boost for Jobs, Growth and Investment' (Priority 4) by creating a more conducive regulatory environment to support a climate of entrepreneurship and job creation.

By promoting a better functioning internal market, it will also facilitate the take-up of opportunities for cross-border employment and the provision of services, in line with the Europe 2020 strategy which emphasises smart, sustainable and inclusive growth as a way to overcome the structural weaknesses in Europe's economy, improve its competitiveness and productivity and underpin a sustainable social market economy.

##### 1.4.2. *Specific objective(s)*

Specific objective No 1

<sup>78</sup> As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

<sup>79</sup> [http://ec.europa.eu/priorities/publications/president-junckers-political-guidelines\\_en](http://ec.europa.eu/priorities/publications/president-junckers-political-guidelines_en)

(a) Facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services.

Specific objective No 2

(b) Support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections.

Specific objective No 3

(c) Mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

1.4.3. *Expected result(s) and impact*

Individuals and employers should benefit from increased transparency and access to information on their rights and obligations, greater awareness of the opportunities available to them, more consistent service provision across the Union and strengthened enforcement of their rights.

National authorities are expected to benefit in particular from smoother cooperation and enhanced exchange of information, synergies in the work of committees and streamlined data collection, analytical and technical support, and access to a mediation procedure in the areas under the Authority's scope.

1.4.4. *Indicators of results and impact*

Detailed objectives and expected results including performance indicators will be established by the annual work programme, while the multi-annual work programme will set out overall strategic objectives, expected results and performance indicators. The key performance indicators for the Agencies developed by the Commission should be respected.

In addition, a dedicated monitoring framework, including a number of indicators, is described in the Impact Assessment Report accompanying the proposal. The framework will be subject to further adjustment according to the final legal and implementation requirements and timeline.

**1.5. Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The proposal is based on Articles 46, 48, 53(1), 62 and 91(1) TFEU, focusing on the free movement of workers, the coordination of social security systems, the take-up and pursuit of activities as self-employed persons, the freedom to provide services and common rules applicable to international transport.

The choice of legal basis reflects the main objectives and scope of the initiative, focusing on cross border labour mobility and social security coordination, including posting of workers. The legal basis for this proposal is also in line with that of the Union acts which will fall under the scope of activities of the Authority. The immediate result is to create a European Labour Authority, which will support the provision of information and services to individuals and employers, and support Member States on cooperation and exchange of information, joint inspections, risk assessments, capacity building, mediation between national authorities, and

cooperation in cases of labour market disruptions. In the longer term the scope of the Agency may be modified, subject to an evaluation to be performed no later than 5 years from the entry into force of the founding regulation.

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

The objectives of the proposal cannot be sufficiently achieved by the Member States at national, regional or local level, and can be better achieved at Union level for the following reasons:

(a) providing high quality and up-to-date information and services to the public about their rights and obligations in cross-border situations needs to be coordinated at Union level in order to ensure a consistent, clear, and efficient approach,

(b) the application of Union law in the fields of cross border labour mobility and the coordination of social security systems relies on cooperation between Member States, meaning that no Member State can act alone,

(c) in order to increase synergies and support cooperation between Member States in the application of Union law across the fields of labour mobility and social security coordination, to ensure legal certainty for administrations and individuals alike and to arrive at a shared understanding of enforcement needs, it is necessary to develop a coordinated and joint approach at Union level instead of relying on what can be a complex network of bilateral or multilateral agreements.

Expected generated Union added value (ex-post)

The setting up of the Authority will facilitate the fair, simple and effective application of Union law across the Union. It will improve cooperation and timely exchange of information between Member States, and increase transparency and access to information and services for individuals and employers. It will support joint inspections with the participation of competent authorities from different Member States. It will provide Member States with dedicated labour market analyses and capacity building services.

- 1.5.3. *Lessons learned from similar experiences in the past*

The initiative takes stock of recent and on-going legislative proposals in the related fields of labour mobility, posting, and social security coordination, and the setting up of a single digital gateway. The Impact Assessment and proposal builds on the progress and lessons learned from these ongoing initiatives, which highlighted the need for operational support, in terms of improved cross-border cooperation and increased transparency and awareness, in order to improve the application and enforcement of relevant Union law.

The proposal has also taken note of the ongoing evaluation of four EU Agencies in the employment policy area<sup>80</sup>. This evaluation includes an individual assessment of each agency, a comparative perspective, and a prospective assessment regarding the future functioning of the four agencies. The nature of the four agencies is quite distinct to that of the proposed

<sup>80</sup> [Reference to evaluation to be added when available]

Authority since they are predominantly research-centred and do not have a cross-border focus. Nonetheless, certain relevant preliminary elements of the evaluation have contributed to this proposal, most notably with regard to the organisation of tasks and governance. The Impact Assessment report accompanying this proposal examines the possible interaction between a new European Labour Authority and the existing four agencies.

#### 1.5.4. *Compatibility and possible synergy with other appropriate instruments*

The Authority should cooperate and promote synergies with other Union information services, such as Your Europe Advice, and take full advantage and ensure consistency with the Your Europe portal, which will form the backbone of the future single digital gateway<sup>81</sup>. The Authority should also cooperate with other relevant Union initiatives and networks, in particular the European Network of Public Employment Services (PES)<sup>82</sup>, the European Enterprise Network<sup>83</sup>, the Border Focal Point<sup>84</sup> and SOLVIT<sup>85</sup>, 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, and national contact points designated under Directive 2011/24/EU to provide information on healthcare.

The Authority will take over some tasks currently performed by the Commission under the EaSI programme, in particular technical and operational tasks. The respective work programmes of both EaSI and the Authority will make sure that they are complementary and do not overlap.

It will cooperate with other EU Agencies working in related fields, in particular the European Agency for Safety and Health at Work (EU OSHA), the European Centre for the Development of Vocational Training (CEDEFOP), and the European Agency for the improvement of living and working conditions (EUROFOUND).

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<sup>81</sup> Regulation [*Single Digital Gateway* – COM(2017)256]

<sup>82</sup> 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).

<sup>83</sup> An overview about the European Enterprise Network is available at: <https://een.ec.europa.eu/>

<sup>84</sup> Communication from the Commission to the Council and the European Parliament, Boosting growth and cohesion in EU border regions, COM(2017) 534.

<sup>85</sup> Commission Recommendation 2013/461/EU of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2011, p. 10).



## 1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
  - Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
  - Financial impact from YYYY to YYYY
- Proposal/initiative of **unlimited duration**<sup>86</sup>
  - Implementation with a start-up period from 2019 to 2023,
  - followed by full-scale operation from 2023 on.

## 1.7. Management mode(s) planned

- Direct management** by the Commission through
  - executive agencies
- Shared management** with the Member States
- Indirect management** by entrusting budget implementation tasks to:
  - international organisations and their agencies (to be specified);
  - the EIB and the European Investment Fund;
  - bodies referred to in Articles 208 and 209;
  - public law bodies;
  - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
  - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
  - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

### Comments

In order to finance this new initiative, both redeployment and fresh money are necessary. Existing activities currently implemented under the EaSI regulation as well as under the Commission prerogative “Free Movement of Workers” will be shifted with their financial resources. Financial contribution from prerogatives “Support activities to the European transport policy and passenger rights including communication activities” and “Transport security” will complement the Commission's redeployment efforts to finance this new initiative. The remainder will be made available through the available margin of Heading 1A.

<sup>86</sup> The financial aspects of this proposal will not prejudice the Commission's proposal on the next Multiannual Financial Framework.

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

All Union agencies work under a strict monitoring system involving an internal control coordinator, the Internal Audit Service of the Commission, the Management Board, the Commission, the Court of Auditors and the Budgetary Authority. This system is reflected and laid down in the European Labour Authority founding regulation.

In accordance with the Joint Statement on the EU decentralised agencies, the annual work programme of the Authority shall comprise detailed objectives and expected results including performance indicators. The Authority will accompany its activities included in its working programme by key performance indicators. The activities of the Authority will be then measured against these indicators in the Annual Activity Report. The annual work programme shall be coherent with the multi-annual work programme and both shall be included in an annual single programming document which shall be submitted to European Parliament, the Council and the Commission.

The Management Board of Authority will be responsible for supervision of the administrative, operational and budgetary efficient management of the Authority.

No later than five years after the entry into force of the founding regulation of the Authority, and every five years thereafter, the Commission shall assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the possible need to modify the mandate of the Authority, and the financial implications of any such modification. 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.

### **2.2. Management and control system**

#### *2.2.1. Risk(s) identified*

The Authority being a totally new agency, if the recruitment process is not on schedule, it might impact the operational capacity of the Authority. The support of the parent DG will be crucial to play the roles of Authorising Officer and AIPN until the Authority is granted administrative autonomy.

Frequent meetings and regular contacts will be needed between the parent DG and the Authority during the start-up phase, in order to make sure that the Authority can be autonomous and operational as quickly as possible.

#### *2.2.2. Control method(s) envisaged*

The Authority will be subject to administrative controls including budgetary control, internal audit, annual reports by the European Court of Auditors, the annual discharge for the execution of the EU budget and possible investigations conducted by OLAF to ensure, in particular, that the resources allocated to agencies are put to proper use. The activities of the Authority will also be subject to the supervision of the Ombudsman in accordance with Article 228 of the Treaty. These administrative controls provide a number of procedural safeguards to ensure that account is taken of the interests of the stakeholders.

### **2.3. Measures to prevent fraud and irregularities**

Anti-fraud measures are foreseen in the Article 38 of the proposal for a founding regulation of European Labour Authority and the Executive Director and the Management Board will take the appropriate measures in accordance with the Internal Control Standards applied across all EU institutions. In line with the Common Approach an anti-fraud strategy will be developed by the Authority.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

**THE ESTIMATED IMPACT ON EXPENDITURE AND STAFFING FOR THE YEARS 2021 AND BEYOND IN THIS LEGISLATIVE FINANCIAL STATEMENT IS ADDED FOR ILLUSTRATIVE PURPOSES AND DOES NOT PRE-JUDGE THE NEXT MULTI-ANNUAL FINANCIAL FRAMEWORK**

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
			from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1a	04 03 15	Diff./ <del>Non-diff.</del>	YES	NO	YES	NO

## 3.2. Estimated impact on expenditure

### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	1A	European Labour Authority (the Authority)
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European Labour Authority (the Authority)			Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Etc.
Title 1:- Staff costs	Commitments	(1)	2.416	6.658	11.071	15.125	17.349	17.696	
	Payments	(2)	2.416	6.658	11.071	15.125	17.349	17.696	
Title 2:- Administrative costs	Commitments	(1a)	0.568	1.115	6.470	5.160	5.650	5.763	
	Payments	(2a)	0.568	1.115	6.470	5.160	5.650	5.763	
Title 3:- Operational costs	Commitments	(3a)	8.088	14.172	21.390	24.695	28.000	28.560	
	Payments	(3b)	8.088	14.172	21.390	24.695	28.000	28.560	
<b>TOTAL appropriations for the Authority</b>	Commitments	=1+1a +3a	<b>11.072</b>	<b>21.945</b>	<b>38.930</b>	<b>44.980</b>	<b>50.999</b>	<b>52.019</b>	
	Payments	=2+2a +3b	<b>11.072</b>	<b>21.945</b>	<b>38.930</b>	<b>44.980</b>	<b>50.999</b>	<b>52.019</b>	

All calculations have been made on a Brussels-based assumption, as the seat of the Authority is not determined. The start-up period has been assessed to five years, with a full operational capacity in 2023. From that moment on, the overall budget of the Authority increases by 2% every year to cover the inflation. Payments are aligned on commitments as, at this stage, it is not decided yet whether Title 3 will be non-differentiated or differentiated appropriations.

In the years 2019 and 2020, the existing activities currently implemented by the Commission under the EaSI programme will be shifted to the Agency. The EURES portal will indeed be shifted in 2020 only. The corresponding amounts made available to the Authority from EaSI are 6,300 MEUR in 2019 and 10,187 MEUR in 2020, or a total amount of 16,487 MEUR until the end of the 2014-2020 Multiannual Financial Framework. The amount made available to the Authority from the Free Movement of Workers both in 2019 and 2020 is 1,287 MEUR per year or a total amount of 2,574 MEUR until the end of the 2014-2020 Multiannual Financial Framework.

In addition, in order to finance the transport related activities that the Authority will implement, the amounts made available to the Authority from DG MOVE are 1,360 MEUR in 2019 and 2,720 MEUR in 2020, or a total amount of 4,080 MEUR until the end of the current Multiannual Financial Framework 2014-2020.

## Details on the sources of redeployment

EUR million (to three decimal places)

<b>European Union Programme for Employment and Social Innovation (EaSI)</b>			<b>Year 2019</b>	<b>Year 2020</b>	<b>Total 2014-2020 MFF</b>
04.010402 – Support expenditure for the programme Employment and Social Innovation	Commitments = Payments	(1)	0,450	0,450	0,900
04.030201 – Progress – Supporting the development, implementation, monitoring and evaluation of Union employment and social policy and working conditions legislation	Commitments	(2)	1,500	1,500	3,000
04.030202 – EURES – Promoting workers' voluntary geographical mobility and boosting employment opportunities	Commitments	(3)	4,350	8,237	12,587
<b>TOTAL EaSI</b>	<b>Commitments</b>	<b>(1) + (2) + (3)</b>	<b>6,300</b>	<b>10,187</b>	<b>16,487</b>

<b>DG EMPL - Autonomous budget lines</b>			<b>Year 2019</b>	<b>Year 2020</b>	<b>Total 2014-2020 MFF</b>
04.030103 – Free movement of workers, coordination of social security schemes and measures for migrants, including migrants from third countries	<b>Commitments</b>	(1)	<b>1,287</b>	<b>1,287</b>	<b>2,574</b>

<b>DG MOVE - Autonomous budget lines</b>			<b>Year 2019</b>	<b>Year 2020</b>	<b>Total 2014-2020 MFF</b>
06 02 05- Support activities to the European transport policy and passenger rights including communication activities	Commitments	(1)	1,360	2,576	3,936
06 02 06- Transport security	Commitments	(2)	-	0,144	0,144
<b>TOTAL Transport autonomous lines</b>	<b>Commitments</b>	<b>(1) + (2)</b>	<b>1,360</b>	<b>2,720</b>	<b>4,080</b>

<b>Margin Heading 1a</b>			<b>Year 2019</b>	<b>Year 2020</b>	<b>Total 2014-2020 MFF</b>
	<b>Commitments</b>	(1)	<b>2,125</b>	<b>7,750</b>	<b>9,875</b>

<b>Heading of multiannual financial framework</b>	<b>5</b>	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Etc.
DG: EMPL								
• Human Resources		3.289	2.860	2.860	2.860	2.860	2.860	
• Other administrative expenditure		0.400	0.400	1.420	1.420	1.420	1.420	
<b>TOTAL DG EMPL</b>	Appropriations	3.689	3.260	4.280	4.280	4.280	4.280	

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)	3.689	3.260	4.280	4.280	4.280	4.280	
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EUR million (to three decimal places)

		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Etc.
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	Commitments	14.761	25.205	43.210	49.260	55.279	56.299	
	Payments	14.761	25.205	43.210	49.260	55.279	56.299	

3.2.2. *Estimated impact on the Authority's appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs			2019		2020		2021		2022		2023	
ò	Type[1]	Average cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost
<b>Specific objective No. 1 - Facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services</b>												
- Output	Services to individuals and employers			1.267		2.220		3.351		3.869		4.387
- Output	Communication activities			0.679		1.189		1.795		2.073		2.350
<b>Subtotal for specific objective N°2</b>				<b>1.946</b>		<b>3.410</b>		<b>5.146</b>		<b>5.942</b>		<b>6.737</b>
<b>Specific objectives No. 2 and 3 - Support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections, and Mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.</b>												
- Output	Framework for exchange of information between MS			0.404		0.709		1.069		1.235		1.400
- Output	Practical (cooperation) meetings			1.357		2.378		3.589		4.144		4.699



- Output	Analytical support/provision of expertise to MS and Commission			1.026	1.798	2.714	3.134	3.553
- Output	Trainings and staff exchanges			1.733	3.037	4.583	5.292	6.000
- Output	Technical and logistical support to cooperation, incl. Guidance			1.621	2.840	4.287	4.949	5.612
Subtotal for specific objective N°1				<b>6.142</b>	<b>10.762</b>	<b>16.243</b>	<b>18.753</b>	<b>21.263</b>
Total				<b>8.088</b>	<b>14.172</b>	<b>21.390</b>	<b>24.695</b>	<b>28.000</b>

The future Authority has 3 key objectives: (a) to facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services, (b) to support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections, and (c) to mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

For operational and financial purposes, these are grouped in two categories:

- **Specific objective No 1** - Facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services,
- **Specific objectives No 2 and 3:** Support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections, and mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

### 3.2.3. Estimated impact on the Authority's human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Etc.
Officials (AD Grades)							
Officials (AST grades)							
Contract staff	0.259	0.814	1.110	1.110	1.110	1.138	
Temporary staff	1.144	3.504	5.935	8.509	9.867	10.114	
Seconded National Experts	0.615	1.845	3.075	4.305	4.920	5.043	
<b>TOTAL</b>	<b>2.018</b>	<b>6.1625</b>	<b>10.1195</b>	<b>13.9235</b>	<b>15.897</b>	<b>16.294</b>	

Posts

Officials (AD Grades)							
Officials (AST grades)							
Contract staff	7	15	15	15	15	15	
Temporary staff	16	33	50	69	69	69	
Seconded National Experts	15	30	45	60	60	60	

<b>TOTAL</b>	<b>38</b>	<b>78</b>	<b>110</b>	<b>144</b>	<b>144</b>	<b>144</b>	
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It has to be noted that the shift to the Authority of existing activities currently implemented by the Commission would likely entail the shift of ca. 10 posts to the Authority. However, the date of the shift as well as the staff category cannot be assessed at this stage. The number of staff would be reduced accordingly, respecting the staff category.

Estimated impact on the staff (additional FTE) – establishment plan

Function group and grade	2019	2020	2021	2022	2023
AD16					
AD15					
AD14					
AD13					
AD12					
AD11					
AD10					
AD9					
AD8					
AD7					
AD6					
AD5					
<b>AD Total</b>	<b>12</b>	<b>24</b>	<b>36</b>	<b>52</b>	<b>52</b>
AST11					
AST10					
AST9					
AST8					
AST7					
AST6					
AST5					
AST4					
AST3					
AST2					
AST1					
<b>AST Total</b>	<b>4</b>	<b>9</b>	<b>14</b>	<b>17</b>	<b>17</b>
AST/SC 6					
AST/SC 5					
AST/SC 4					
AST/SC 3					
AST/SC 2					
AST/SC 1					
<b>AST/SC Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>GRAND TOTAL</b>	<b>16</b>	<b>33</b>	<b>50</b>	<b>69</b>	<b>69</b>

Estimated impact on the staff (additional) – external personnel

Contract agents	2019	2020	2021	2022	2023
Function group IV					
Function group III					
Function group II					
Function group I					
Total	7	15	15	15	15

Seconded National Experts	2019	2020	2021	2022	2023
Total	15	30	45	60	60

The staff costs have been adjusted in such a way that the newly recruited staff is accounted for 6 months during the year of recruitment. Cruising speed is scheduled for 2023, with 100% of staff accounted from 1<sup>st</sup> January 2023.

The planning of recruitment is differentiated according to the staff category:

- **For Temporary Agents**, it is assessed that the recruitment of 69 individuals will take four years, starting in 2019;
- **For Contract Agents**, it is assessed that the recruitment of 15 individuals will be finalised in two years, starting in 2019;
- **For Seconded National Experts**, it is assessed that the recruitment of 60 experts will start in 2019 and will be finalised within 4 years.

### 3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	2019	2020	2021	2022	2023
<b>• Establishment plan posts (officials and temporary staff)</b>					
04 01 01 01 (Headquarters and Commission's Representation Offices)	23	20	20	20	20
XX 01 01 02 (Delegations)	n.a.	n.a.		n.a.	
XX 01 05 01 (Indirect research)	n.a.	n.a.	n.a.	n.a.	n.a.
10 01 05 01 (Direct research)	n.a.	n.a.	n.a.	n.a.	n.a.
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>87</sup></b>	n.a.	n.a.	n.a.	n.a.	n.a.
XX 01 02 01 (AC, END, INT from the 'global envelope')	n.a.	n.a.	n.a.	n.a.	n.a.
XX 01 02 02 (AC, AL, END, INT and JED in the Delegations)	n.a.	n.a.	n.a.	n.a.	n.a.
XX 01 04 yy		n.a.	n.a.	n.a.	n.a.
XX 01 05 02 (AC, END, INT – Indirect research)	n.a.	n.a.	n.a.	n.a.	n.a.
10 01 05 02 (AC, END, INT – Direct research)	n.a.	n.a.	n.a.	n.a.	n.a.
Other budget lines (specify)	n.a.	n.a.	n.a.	n.a.	n.a.
<b>TOTAL</b>	<b>23</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Represent the Commission in the Management Board of the Authority. Draw up Commission opinion on the annual work programme and monitor its implementation. Supervise the preparation of the Authority's budget and monitor implementation of the budget. Assist the Authority in developing its activities in line with EU policies including by participating in experts meetings.
External staff	N/A

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

<sup>87</sup> AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JED = Junior Experts in Delegations.

### 3.2.4. *Compatibility with the current multiannual financial framework*

- The proposal is compatible with the current multiannual financial framework and may entail the use of special instruments as defined in Council Regulation (EU, Euratom) No 1311/2013.<sup>88</sup>
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

[...]

- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>89</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

[...]

### 3.2.5. *Third-party contributions*

- The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	2019	2020	2021	2022	2023	2024	Etc.
EEA EFTA countries (NO, LI, IC)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Switzerland	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
TOTAL appropriations co-financed	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

<sup>88</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

<sup>89</sup> See Articles 11 and 17 of Council Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020.

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>90</sup>					Enter as many years as necessary to show the duration of the impact (see point 1.6)		
		Year N	Year N+1	Year N+2	Year N+3				
Article .....									

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

[...]

Specify the method for calculating the impact on revenue.

[...]

<sup>90</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.