Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94

REGULATION (EU) 2019/126 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 January 2019

establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94

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 point (a) of Article 153(2) 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[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The European Agency for Safety and Health at Work (EU-OSHA) was established by Council Regulation (EC) No 2062/94[(3)] to contribute to the improvement of the working environment, as regards the protection of the safety and health of workers, through action designed to increase and disseminate knowledge in that area.

(2) Since it was established in 1994, EU-OSHA has played an important role in supporting the improvement of safety and health at work throughout the Union. At the same time, there have been developments in the area of occupational safety and health and technological developments. The terminology used to describe the objectives and tasks of EU-OSHA should therefore be adapted to reflect those developments.

(3) Regulation (EC) No 2062/94 has been amended several times. Since further amendments are to be made, that Regulation should be repealed and replaced in the interest of clarity.

(4) The rules governing EU-OSHA should, to the extent possible and taking into account its tripartite nature, be established in accordance with the principles of the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies of 19 July 2012.

(5) As the three tripartite agencies, namely EU-OSHA, the European Foundation for the improvement of living and working conditions (Eurofound) and the European Centre

for the Development of Vocational Training (Cedefop) address issues related to the labour market, the working environment, vocational education and training, and skills, close coordination among them is required. In its work, EU-OSHA should therefore complement the work of Eurofound and Cedefop where they have similar fields of interest, while favouring tools that function well, such as memoranda of understanding. EU-OSHA should exploit ways to enhance efficiency and synergies and, in its activities, avoid duplication with those of Eurofound and Cedefop and of the Commission. In addition, where relevant, EU-OSHA should seek to cooperate efficiently with the in-house research capacities of the Union institutions and of external specialised bodies.

(6) The Commission should consult the main stakeholders including members of the Management Board and members of the European Parliament during the evaluation of EU-OSHA.

(7) The tripartite nature of EU-OSHA, Eurofound and Cedefop is a highly valuable expression of a comprehensive approach based on the social dialogue between the social partners and Union and national authorities, which is extremely important for the purpose of finding joint and sustainable social and economic solutions.

(8) When referring to safety and health at work in this Regulation, it is understood that it refers to both physical and mental health.

(9) In order to streamline the decision-making process of EU-OSHA and to contribute to enhancing efficiency and effectiveness, a two-level governance structure should be introduced. To that end, the Member States, the national employers' and employees' organisations and the Commission should be represented on a Management Board vested with the necessary powers, including the power to adopt the budget and approve the programming document. In the programming document, containing EU-OSHA's multiannual work programme and its annual work programme, the Management Board should lay down the strategic priorities of EU-OSHA's activities. Moreover, the rules adopted by the Management Board for the prevention and management of conflicts of interests should include measures for detecting potential risks at an early stage.

(10) In order for EU-OSHA to function properly, the Member States, the European employers' and employees' organisations and the Commission should ensure that persons to be appointed to the Management Board have appropriate knowledge in the field of safety and health at work with a view to making strategic decisions, and to overseeing EU-OSHA's activities.

(11) The Executive Board should be set up with the task of preparing the meetings of the Management Board in an appropriate manner and supporting its decision-making and monitoring processes. In assisting the Management Board, it should be possible for the Executive Board, where necessary, for reasons of urgency, to take certain provisional decisions on behalf of the Management Board. The Management Board should adopt the rules of procedure of the Executive Board.

(12) The Executive Director should be responsible for the overall management of EU-OSHA in accordance with the strategic direction set by the Management Board, including day-to-day administration as well as financial and human resources management. The

Executive Director should exercise the powers entrusted to him or her. It should be possible to suspend those powers in exceptional circumstances, such as conflicts of interests or a serious failure to comply with obligations under the Staff Regulations of Officials of the European Union ('Staff Regulations').

(13) The principle of equality is a fundamental principle of Union law. It requires that equality between women and men must be ensured in all areas, including employment, work and pay. All parties should aim to achieve a balanced representation between women and men on the Management Board and the Executive Board. That aim should also be pursued by the Management Board with regard to its Chairperson and Deputy Chairpersons taken together, as well as by the groups representing the governments and the employers' and employees' organisations on the Management Board with regard to the designation of alternates to attend the meetings of the Executive Board.

(14) EU-OSHA operates a liaison office in Brussels. The possibility of operating that office should be maintained.

(15) There are already organisations in the Union and in the Member States which provide the same type of information and services as provided by EU-OSHA. In order to obtain the maximum benefit at Union level from the work already carried out by those organisations, it is appropriate to maintain the existing well-functioning network set up by EU-OSHA under Regulation (EC) No 2062/94 and comprising national focal points and Member State tripartite networks. It is also important that EU-OSHA maintain very close functional links with the Advisory Committee on Safety and Health at Work set up by a Council Decision of 22 July 2003[(4)], in order to ensure good coordination and synergies.

(16) The financial provisions and provisions for programming and reporting relating to EU-OSHA should be updated. Commission Delegated Regulation (EU) No 1271/2013[(5)] provides that EU-OSHA is to carry out *ex ante* and *ex post* evaluations of those programmes and activities that entail significant spending. Those evaluations should be taken into account by EU-OSHA in its multiannual and annual programming.

(17) In order to ensure its full autonomy and independence and to enable it properly to carry out its objectives and tasks in accordance with this Regulation, EU-OSHA should be granted an adequate and autonomous budget with revenue stemming mainly from a contribution from the general budget of the Union. The Union budgetary procedure should be applicable to EU-OSHA as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. EU-OSHA's accounts should be audited by the Court of Auditors.

(18) The translation services required for EU-OSHA's functioning should be provided by the Translation Centre of the Bodies of the European Union (Translation Centre). EU-OSHA should work together with the Translation Centre to establish indicators for quality, timeliness and confidentiality, to identify clearly EU-OSHA's needs and priorities, and create transparent and objective procedures for the translation process.

(19) Provisions concerning EU-OSHA's staff should be in line with the Staff Regulations and the Conditions of Employment of Other Servants of the Union (Conditions of

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/126 of the European Parliament and of the Council. (See end of Document for details)*

Employment of Other Servants) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68[(6)].

(20) EU-OSHA should take the necessary measures to ensure the safe handling and processing of confidential information. Where required, EU-OSHA should adopt security rules equivalent to those set out in Commission Decisions (EU, Euratom) 2015/443[(7)] and (EU, Euratom) 2015/444[(8)].

(21) It is necessary to lay down transitional budgetary provisions and transitional provisions with regard to the Management Board, Executive Director and staff to ensure the continuation of EU-OSHA's activities pending the implementation of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES AND TASKS

Article 1

Establishment and objectives

1 The European Agency for Safety and Health at Work (EU-OSHA) is hereby established as a Union Agency.

2 EU-OSHA's objective shall be to provide the Union institutions and bodies, the Member States, the social partners and other actors involved in the field of safety and health at work with relevant technical, scientific and economic information and qualified expertise in that field in order to improve the working environment as regards the protection of the safety and health of workers.

To that end, EU-OSHA shall enhance and disseminate knowledge, provide evidence and services for the purpose of policy making, including research-based conclusions, and shall facilitate knowledge sharing among and between Union and national actors.

Article 2

Tasks

1 EU-OSHA shall have the following tasks with respect to the policy areas referred to in Article 1(2), while fully respecting the responsibilities of the Member States:

a collect and analyse technical, scientific and economic information on safety and health at work in the Member States in order to:

(i) identify risks and good practices as well as existing national priorities and programmes;

(ii) provide the necessary input to Union priorities and programmes; and

(iii) disseminate that information to the Union institutions and bodies, the Member States, the social partners and other actors involved in the field of safety and health at work;

b collect and analyse technical, scientific and economic information on research into safety and health at work and on other research activities which involve aspects connected with safety and health at work and disseminate the results of the research and research activities;

c promote and support cooperation and exchange of information and experience amongst the Member States in the field of safety and health at work, including information on training programmes;

d organise conferences and seminars and exchanges of expertise from the Member States in the field of safety and health at work;

e supply the Union institutions and bodies and the Member States with the objective technical, scientific and economic information available and the qualified expertise they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers, including the prevention and anticipation of potential hazards, in particular providing the Commission with the technical, scientific, and economic information and with the qualified expertise that it requires to fulfil its tasks of identifying, preparing and evaluating legislative and other measures on the protection of the safety and health of workers, in particular as regards the impact of legal acts, their adaptation to technical, scientific and regulatory progress and their practical implementation by undertakings, with particular reference to micro, small and medium-sized enterprises (MSMEs);

f provide forums for exchange of experiences and information between the governments, the social partners and other stakeholders at national level;

g contribute, including through evidence-based information and analyses, to the implementation of reforms and policies at national level;

h collect and make available information on safety and health matters from and to third countries and international organisations;

i provide technical, scientific and economic information on methods and tools for implementing preventive activities, identify good practices and promote preventive actions, paying particular attention to the specific problems of MSMEs and, with regard to good practices, focus, in particular, on practices which constitute practical tools to be used in drawing up an assessment of the risks to safety and health at work, and identifying the measures to be taken to tackle those risks;

j contribute to the development of Union strategies and action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;

k establish a strategy for relations with third countries and international organisations in accordance with Article 30 concerning matters for which EU-OSHA is competent;

l carry out awareness raising and communication activities and campaigns on safety and health at work issues.

2 Where new studies are needed, and before taking policy decisions, the Union institutions shall take into account EU-OSHA's expertise and any studies that it has conducted in the area concerned or that it is able to conduct, in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(9)].

3 EU-OSHA shall ensure that the information disseminated and the tools made available are tailored to the intended users. To achieve that objective, EU-OSHA shall work closely with the national focal points referred to in Article 12(1), in accordance with Article 12(2).

4 EU-OSHA may conclude cooperation agreements with other relevant Union agencies in order to facilitate and promote cooperation with them.