

COUNCIL DECISION (EU) 2023/926**of 24 April 2023****on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (EU-OSHA)****(Text with EEA relevance)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2) in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms.
- (3) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Regulation (EU) 2019/126 of the European Parliament and of the Council ⁽³⁾.
- (4) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2023.
- (5) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (OJ L 30, 31.1.2019, p. 58).

Done at Luxembourg, 24 April 2023.

For the Council

The President

J. BORRELL FONTELLES

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DECISION No ... OF THE EEA JOINT COMMITTEE

of ...

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

THE EEA JOINT COMMITTEE,

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

Whereas:

- (1) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 ⁽¹⁾.
- (2) Regulation (EU) 2019/126 repeals Council Regulation (EC) No 2062/94 ⁽²⁾, which is included in the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (3) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2023,

HAS ADOPTED THIS DECISION:

Article 1

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

'(a) The EFTA States shall participate fully in the European Agency for Safety and Health at Work (EU-OSHA), hereinafter referred to as the "Agency", as set up by the following Union act:

— **32019 R 0126**: Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (OJ L 30, 31.1.2019, p. 58).

- (b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) and Protocol 32 of the Agreement.
- (c) The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote.
- (d) The term 'Member State(s)' and other terms referring to their public entities contained in Article 12 of the Regulation shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their public entities.
- (e) The Agency shall have legal personality. It shall enjoy in all the states of the Contracting Parties the most extensive legal capacity accorded to legal persons under their laws.
- (f) The EFTA States shall grant privileges and immunities to the Agency and its staff equivalent to those contained in the Protocol on Privileges and Immunities of the European Union.
- (g) By way of derogation from Article 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants of the European Union, nationals of EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

⁽¹⁾ OJ L 30, 31.1.2019, p. 58.

⁽²⁾ OJ L 216, 20.8.1994, p. 1.

- (h) By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, the languages referred to in Article 129(1) of the Agreement shall be considered by the Agency, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.
- (i) By virtue of Article 79(3) of the Agreement, Part VII (Institutional Provisions) of the Agreement shall apply to this paragraph.
- (j) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽³⁾ shall, for the application of Regulation (EU) 2019/126, apply to any documents of the Agency regarding the EFTA States as well.^{*}

Article 2

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

It shall apply from 1 January 2023.

Article 3

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

Done at Brussels,

*For the EEA Joint Committee
The President*

*The Secretaries
To the EEA Joint Committee*

⁽³⁾ OJ L 145, 31.5.2001, p. 43.

^(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

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

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